

RAILWAYS ACT, 1921.

PROCEEDINGS OF THE RAILWAY
RATES TRIBUNAL.

SCHEDULES OF STANDARD CHARGES.

STANDARD REVENUE ALLOWANCE UNDER SECTION 58 (1) (a).

MONDAY, MARCH 16TH, 1925.

FOURTEENTH DAY.



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PROCEEDINGS OF THE RAILWAY RATES TRIBUNAL.

MONDAY, MARCH 16TH, 1925.

PRESENT :

W. B. CLODE, Esq., K.C. (*President*).

W. A. JEPSON, Esq.

GEO. C. LOCKET, Esq., J.P.

FOURTEENTH DAY.

THE RT. HON. H. P. MACMILLAN, K.C., Mr. BRUCE THOMAS, and Mr. ALFRED TYLOR (instructed by the Solicitors of the Amalgamated Railway Companies) appeared for the Railway Companies.

THE HON. R. STAFFORD CRIPPS appeared for the London County Council.

Mr. F. J. WROTESLEY appeared for the Traders' Co-ordinating Committee; for the National Association of Railway Travellers; and for the following local authorities: The Boroughs of Leeds,

Cardiff, Oldham, St. Helens, West Ham, East Ham, Gravesend, Richmond, Dartford, Southport, Watford, Leamington Spa, Morecambe, and Rothsay; and for the Urban District Councils of: Mitcham, Heston and Isleworth, Teddington, Wallington, Sunning, Harrow-on-the-Hill, Prestwich, Epsom, Carshalton, Barnet, Hampton, Bexley Heath, and Staines.

MR. CYRIL HURCOMB, C.B., C.B.E. appeared for the Ministry of Transport.

MR. J. H. WORRALL appeared for the National Anti-Profiteering Society.

President: Before we commence to-day's proceedings, Mr. MacMillan, I think I might make a statement which may be listened to by the parties, and of which possibly advantage may be taken.

Mr. MacMillan: If you please, Sir.

President: I understand that Monday next has been fixed for the consideration of certain questions under Section 58 (1) (b).

Mr. MacMillan: Yes, Sir, that is so.

President: And I understand that on the 27th of April a fixture has been made for considering either economies or expenditure. In the first instance, I should like to say that it will not be convenient to the Tribunal to meet on Monday next, but it will be Tuesday next when the meeting will take place.

The next thing is that Sir Ralph Wedgwood, when we were dealing with the question of procedure, said: "I understand it is proposed to hold sittings on the 16th and the 23rd of March to deal with (a) and (b). On the 23rd of March our statement of Economies will have been before the Co-ordinating Committee for a week; and I would suggest the matter might be discussed at that meeting as to how soon it is likely both parties will be prepared for a hearing." I dare say by that date indicated by Sir Ralph Wedgwood you could give us some indication of the topic which you propose to deal with, whether it is Economies or whether it is Expenditure, and you will be able also to make some statement with reference to future proceedings for the fixing of Standard Revenue. That is all that I desire to bring to your notice at the moment. Possibly you would like to make a statement about it later.

Mr. MacMillan: With reference to that, Sir, may I say that of course your arrangements will be observed. The 24th of March does happen to be a day of a little embarrassment to the railway companies, because the London and North-Eastern Company is on that day opening its Bill in the House of Lords Committee, but no doubt other arrangements can be made. As regards Economies, I am assured

that they can be ready for discussion on the 27th April, but on that date we shall not be prepared, I believe, to discuss Expenditure. We shall certainly do our best to have the figures regarding Economies ready; but they are rather difficult, to be quite frank about it.

President: I can quite understand that.

Mr. MacMillan: They are difficult to formulate, Sir; that is the difficulty about it, really.

President: Will you bear in mind that we should like you, if you are in a position to do it, to be able to discuss the question of the future programme after those dates?

Mr. MacMillan: If you please, Sir; I will make inquiries and will tell you what can be done.

Now, Sir, to-day has been allotted by you and your colleagues for the purpose, to quote the statutory terms, of "Fixing the capital expenditure forming the basis on which interest was allowed at the end of the period during which the constituent companies and subsidiary companies were in the possession of the Government"—that is, at the 15th August, 1921. I have quoted the precise language of Section 58, Sub-section (1) (a). You may recall that when we were before you last summer and this topic was mooted, we placed before you in our Tables R.T.2a and following tables our approximate figures for the item under Section 58 (1) (a). At that time the figures had not been completely ascertained, and the learned Solicitor General, as he then was, Sir Henry Slesser, intervened on behalf of the Minister of Transport to suggest that that matter might be held over until the Ministry of Transport had completed their investigations and were in a position to place before the Tribunal their finally ascertained figures. That suggestion seemed good to you and was approved, and in consequence that matter was not then any further debated. If you care to have a reference to the passage I will give it to you, because it is sometimes convenient and saves trouble. The matter was dealt with on the 28th May, 1924, and the record of it appears on page 55 and 56 of the proceedings. The arrangement which was then made was that the final

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ascertainment of this figure should be postponed until the Minister had completed his investigations and determined the figures. In your Decisions on Preliminary Questions of Principle, which was issued on the 31st July last, you dealt with this matter at page 324, and as your pronouncement on that occasion was of very considerable importance I shall venture to read exactly what the President then said. It is in the first column on page 324, about three-fourths of the way down, and he said this: "By the terms of Section 58 (1) (a) a sum equal to 5 per cent. is to be given by the Tribunal on Capital Expenditure forming the basis on which interest was allowed by the Government at the end of the period during which the constituent and subsidiary companies were in the possession of the Government"—that is a textual quotation from the Statute. "Under these words it appears to be the duty of the Tribunal to see whether, in fact, interest was allowed by the Government at the end of the period mentioned on the total which is presented to them for remuneration at 5 per cent.; but this duty does not extend to enquiring how or under what circumstances it was expended by the subsidiary and constituent companies and afterwards allowed for interest, as this duty is imposed on the Minister. If the Capital Expenditure was made before the period of control ended and allowed for interest subject to verification and adjustment, such Capital Expenditure would not in our view be excluded from the 5 per cent. remuneration, because in fact the verification and adjustment were not concluded upon the 15th August, 1921, and could properly be included in the Minister's Certificate." That last passage was due to an argument which, as you may recall, was submitted, namely, that on the 15th August, 1921, the guillotine descended, so to speak, the investigation was to be arrested, and you were to take the figure ascertained at that minute. That view did not commend itself to the Tribunal, and you held as you decided in the passage which I have just read. I think that the intermediate paragraph is one of very great importance in our present investigation, namely, your decision that this is a question of fact which is propounded in the scheme, as to what in fact was the capital expenditure upon which the Government allowed interest. That is a matter of fact to be determined on the Certificate of the Minister; and that Certificate being handed in, your task would seem to be more or less ministerial, namely, to apply 5 per cent. to that and bring out the figure.

I may perhaps give you shortly the history of what has occurred since we were last before you upon this matter. On the 15th of November, 1924, the Minister sent to the Tribunal and to the parties the ascertained figures, embodied in four tables, marked M.T. 1, M.T. 2, M.T. 3, and M.T. 4, and he accompanied those tables with a letter pointing out that so far as the figures of the London, Midland and Scottish Railway Company were concerned, these had not been finally adjusted. It might be well, I think, if I were to read to you the precise terms of the Minister's letter of the 15th November, 1924. In addressing the Secretary of your Tribunal he says: "Sir, I am directed by the Minister of Transport to send you, for the information of the Railway Rates Tribunal, the accompanying Schedules M.T. 1, 2, 3, and 4, showing the total amounts as at the 15th August, 1921, upon which interest has been allowed by the Government under the Railway Agreements, to each of the Companies and Committees shown in Schedules C to Documents R.T. 2 (a), R.T. 3 (a), R.T. 4 (a), and R.T. 5 (a)"—he there gives you, therefore, the total amounts of which we have been in search—"I am to point out that for certain companies in the London, Midland and Scottish Group (against which an asterisk is placed in M.T. 2) the figures have not yet been definitely settled, but the claims formulated are under examination and preliminary amounts have been inserted. It is not thought that any adjustment of the figures which may be required could materially affect the amount

of Standard Revenue. The Ministry's witness indicated in the course of his examination before the Tribunal that a note would be made showing the amount included in the Great Western Company's figures in respect of the Fishguard and Rossario Railways and Harbours Company. The necessary note appears accordingly on Schedule M.T. 3 and a similar note is made in M.T. 1 of the amount included in the North British Company's figures in respect of the Forth Bridge Railway Company. The figures have not been sub-divided under the headings (2) to (7) in Schedule C.R.T. 2 (a) to 5 (a), but this can be done if the Tribunal require the more detailed information." If you will turn to the London, Midland and Scottish figures which are given in M.T. 2, you will notice that, as the Minister says in his letter, asterisks have been placed against two of the items, namely, the London and North Western figure and the Lancashire and Yorkshire figure. After the Minister had sent us these tables, these two figures were adjusted, and it may be convenient for you to mark in the margin the finally adjusted figures in lieu of those against which asterisks had been placed. The figure of 63 million pounds for the London and North Western Railway Company becomes £26,246,029; and the figure for the Lancashire and Yorkshire Company, instead of being £22,200,000, is slightly increased and it should be £22,201,994. Those slight amendments upon M.T. 2 having been made, that series of tables now represents the final ascertainment by the Ministry of the sums with which we have to deal under Section 58 (1) (a) of the Act.

In compliance with your direction, the Railway Companies on the 16th February, 1925, lodged amended tables giving effect to the Minister's tables, and these you will now have before you in the shape of documents R.T. 2a Schedule C amended, R.T. 3a Schedule C amended, R.T. 4a Schedule C amended and R.T. 5a Schedule C amended. What has been done in each of these cases is to put in the figures which the Minister has provided and agreed, in lieu of the figures which appeared in the larger volumes, namely, the original document R.T. 2a, and so on. In common sense, as you will appreciate, you are not really concerned with the allocation of the total among those different heads—Railways, Omnibuses, Steamboats, Canals, and so on—because what you are concerned with, as I humbly conceive, is the total figure. But when we originally prepared our Schedule C we allocated the items under those different headings, which, as you will see, are headings taken from above the line in the railway account, and when we prepared our amended Schedule C in conformity with the Minister's figures we again allocated the totals which are in the Minister's figures among the different heads, giving effect to the necessary correction. Therefore Schedule C amended is a counterpart of the original Schedule C, but with different totals, and, of course, corresponding alterations in the allocations. These figures have remained as they stand, fixed; but after we had lodged them on the 16th February, 1925, the Minister of Transport indicated that his allocation of certain of these figures among the different heads was not in agreement with our allocation, and he submitted his allocation of the totals under the different heads. That applied only to two of the companies, namely, the London and North Eastern Company and the London, Midland and Scottish Company. Again, in order that you might have before you those figures of the Minister, we prepared in the case of the two companies mentioned (namely, the London and North Eastern Company and the London, Midland and Scottish Company), two additional papers which are known as R.T. 2a amended and revised and R.T. 3a amended and revised; and you will observe, if you look at those, that the totals are exactly the same, and therefore so far as the subject-matter of your investigation is concerned I should imagine that you will not be greatly concerned with the divergence of view between the Minister and the

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two railway companies concerned, in the matter of the distribution of the totals under those different heads, because the task which is set to you is the task of ascertaining totals, and not that of distributing the totals under different heads. At the same time, as we had in Schedule C originally given the distribution of the figures, and as that information might be of use to the traders if they had any point to make, it was no doubt proper, when we came to prepare our amended tables, that we should continue the distribution of the figures under the different heads; and in turn, when the Minister gave us his view of the distribution, that we should put it before you in the case of the two companies, the London and North Eastern and the London, Midland and Scottish in yet another table. That distribution suggested by the Minister and embodied in the two last-mentioned tables is naturally a matter of some difficulty and controversy, and I am to say that so far as the railway companies are concerned, whilst they put forward those tables of the two companies mentioned as amended and revised, as showing the Minister of Transport's allocation of the totals under the different heads, they desire to state quite definitely that they do not accept that as a correct distribution.

I may tell you at once how it arises, in case you are interested in the matter. If you take a dock, for example, there is always considerable discussion as to the frontiers of the dock, between the railway company and the dock company; different views obtain upon the matter, and the Ministry's view seemed to differ from the railway companies' views, and therefore they have taken part of the total out of one department and put it into the other; but we agree that as a matter of principle for the purposes of giving you information, we have given you the Minister's allocation in the case of those two companies as well as our own allocation of the total. I have only mentioned that by way of explanation, in case you might have any difficulty when you are reading these tables subsequently, because you might not otherwise have understood the genesis of that difference.

That is how the matter stands. Accordingly, you have before you this morning in R.T. 2a and the following papers as amended, the total figure which the Minister of Transport has certified to the Tribunal as being the figure upon which interest was allowed on the 21st August, 1921, by the Government. As a matter of interest, I have gone over the totals in our original document R.T. 2a, and I have compared them with our totals in R.T. 2a amended, and I have done the same thing for each of the four companies, in order to see how far out we were in our original figures; and I think it is consolatory to find that although we were dealing with such very large items, in point of fact the divergencies have turned out to be very little; in short, we were pretty good prophets as to what would be the ultimate result of the remaining investigation that was necessary. I find—and this may interest you, I will only give you a broad figure or two—that when we were before you on the previous occasion the total sum of which we asked you to allow us 5 per cent. under Section 58 (1) (a) was £37,361,596; that figure was given by Mr. Quirey in the course of the proceedings, and it is the result of the summation of the totals of the four Schedules C of the four companies. Now, those figures have been amended to give effect to the Minister's determination, and I find that the total figure still stands at £37,000,000, and the difference only occurs in the hundreds of thousands—the figure now is £37,201,136, being a difference in the four companies of £160,460. We had, therefore, in our original tables, overstated our claim for the four companies to the extent of £160,460, distributed, of course, in varying amounts among the four companies.

In folio 1 of R.T. 2a you will recall that this item is shown, naturally, only as an interest item: 5 per cent. interest. The item is item 3 in folio 1, and it is entitled thus: "Add a sum equal to 5 per cent. on capital expenditure forming the basis on which

interest was allowed to the end of the period during which constituent companies and subsidiary companies were in the possession of the Government namely, 15th August, 1921, as per Section 58 (1) (a)"; and then we set out in each of the four books the amount of 5 per cent. on the capital expenditure as detailed in Schedule C for each of those companies, and we brought out, as you will observe, an interest sum of £1,568,079. The result of the Minister's figures has been to reduce the interest account, of course, precisely correspondingly to the capital account, because we now take 5 per cent. upon the reduced sum in lieu of 5 per cent. upon the sums indicated in our previous Schedule C. The net result of it all is that whereas we claimed, as I have already stated under item 3 in folio 1, the sum of £1,568,079, we now claim the sum of £1,800,057. The interest claimed was therefore overstated to the extent of £8,022 only; or, in other words, subtracting the one figure from the other, you get a difference of £8,022 only, if my arithmetic is right. Therefore I think I may say that we were surprisingly close to the mark in the figures which we put before you on the previous occasion; but then matters were still open, whereas now the Minister has performed his task and has submitted to you his figures.

Now there are one or two observations which I think ought to be made upon the Minister's figures. He has, as you will observe, in a series of tables which are called M.T. 1, M.T. 2, M.T. 3 and M.T. 4, in the case of each company, given first the constituent and subsidiary companies' figures, and then of a separate paper he has given the "J" joint line companies' figures. He has done that throughout, and he has done it in this fashion: In giving the "J" joint line capital figures he has in each case given the total figures on the second sheet, with the result that you will find that where two companies are interested in a "J" joint line, the second page of his table will give you the whole amount in each case; that is to say, if you take the Cheshire Lines Committee, for example, the figure of £98,295 is entered under the London and North Eastern Railway Company in M.T. 1, and the same figure will be found entered under the London Midland and Scottish Railway Company, which company is also interested in the Cheshire Lines Committee. Of course, in our tables, it would not do for us to repeat the whole of these amounts; and therefore, what we have done is (in exact conformity and with what we did in Schedule C) that we have taken the figures for the "J" joint lines and apportioned them between the companies concerned according to their fractional interest in those sums, according to the basis on which they are respectively interested in the "J" joint lines. Otherwise we should have been claiming twice on the same sum. The Minister conceived the proper course to be to give you the total figures for each joint line, and then to apportion them to the companies which were interested in the "J" joint line; but you will find that our totals in every case are compounded from the figures taken from the first sheet of M.T. 1, M.T. 2, M.T. 3 and M.T. 4, plus the figures taken from the second sheet of M.T. 1, M.T. 2, M.T. 3 and M.T. 4, after allocating the figures of those second sheets among the companies according to their respective interests, thus avoiding a double claim for 5 per cent. for the same item. One has to bear that in mind, because it is not a case of simply adding up all the figures in M.T. 1, 2, 3 and 4, otherwise you would find the same item appearing more than once, and doing service as rendering us 5 per cent. more than once. Therefore, the amended tables which are before you this morning give effect, as you will see, to the proportional allocation. There is nothing like taking an example, and if you will take R.T. 2A amended, for a moment—or, if you like, R.T. 2A amended and revised, because it is unimportant for the present purpose, it being the same in each case—you will find that the "J" Joint Lines are dealt with in this way: Take the Cheshire

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Lines Committee, for example, the London and North Eastern proportion in that case is two-thirds. That, Sir, is two-thirds of the sum of £95,295, returned by the Minister as the total capital expenditure on which interest was allowed in the case of the Cheshire Lines Committee, and similarly throughout. If you care to turn to the London and North Western Company's figures, in the London Midland and Scottish Company's figures, you will find the balance there; but you need not do that because it is obvious how it has been done.

That is one explanation that I thought I ought to give; and there is just another explanation, as far as I have detected. The only alterations which you need note, in comparing R.T. 2A as originally compiled with R.T. 2A as now amended, are that in the case of the London and North Eastern Company, there is now included a very small item, namely, the Mid-Suffolk Light Railway, which was not included in the original R.T. 2A. That accounts for an item of £162, and I think probably I have spent its value in the three minutes I have taken in explaining it—I mean its value in regard to the ultimate fate of this inquiry. The Mid-Suffolk Light Railway was brought to light, if I may use that expression, by the Ministry of Transport; it had been omitted before, but it is now included. It is in the Minister's figures, and we have added it to R.T. 2A. I am told that it was not an oversight; one must not suggest that a Railway Company can ever err; it was not included because the Absorption was not complete at the time, which seems to be quite a good reason.

The other alteration, which you will find also in the case of the London and North Eastern Company, is that there is an additional "J" Joint Line in it, which happens to be the fourth of the "J" Joint Lines, namely, the Great Western and Great Central Joint Committee, in which the London and North Eastern Company are interested to the extent of one half. That "J" Joint Line was not included in R.T. 2A, but it is in the Minister's document M.T. 1, and therefore it has been put in. The Railway Company confesses, in this case, that it was omitted by inadvertence.

Then I turn to one other alteration that I noted which was consequential upon the one to which I have just alluded, namely, that in the Great Western Company's figures, Schedule C as amended—there is no "Schedule C as amended and revised" in the case of the Great Western Company—you will now find, under the heading of "J" Joint Lines the Great Western and Great Central Joint Committee. The Great Western proportion is one half, and that is the counter part of the omitted item in the London and North Eastern Railway Company's accounts.

Now I think I have discharged my task of explaining these tables to you, and I do not think any other matter arises for explanation as to the method upon which they have been compiled; and now I confess that I am somewhat at a loss to know what will be the most convenient course to pursue. For the moment we have not the advantage of knowing what comment or criticism is to be made upon the Minister's figures as tabled. He has now supplied you with the facts to which you referred in your decision, and he has now given you the sums upon which in point of fact at the 21st August, 1921, interest was allowed by the Government; the Minister has therefore discharged his function, and, that being so, our position I suppose is the simple one of saying: "Those are the figures, and your task becomes the Ministerial task of taking 5 per cent. upon those figures."

I might therefore leave the matter at that, and await the criticisms, if any are to be made—because I do not know what they are, or if there are any—upon those figures, or any comments that may be made upon them; and I think that that probably would have been the right course for me to adopt, were it not for the fact that there are two comments

made by the Minister on the Tables, as to which I think the Tribunal are entitled to have the Railway Company's views, because attention is drawn to them in these tables M.T. 1, 2, 3 and 4. The first of those matters is alluded to in the note appended to M.T. 1. The Minister there states: "Included in the North British Company's figures is a sum of £25,194 in respect of capital expenditure of the Forth Bridge Railway Company, not included in the capital expenditure of the North British Company." It is a relatively small item, of course, because we are only concerned with 5 per cent. on £25,000; but, on the other hand, I think it is right to give an explanation of that item, and I am sorry to say that it is a rather complicated explanation, although I will do my best with it. The Forth Bridge Railway Company, as you know, is the company which owns the Forth Bridge across the River Forth in Scotland, and it is in this position that the North British Railway Company worked the Forth Bridge Railway Company's undertaking, and was responsible for everything except the actual maintenance of the Bridge itself. The maintenance of the Bridge rested with the Forth Bridge Company, but the maintenance of the permanent way on the Bridge was for the North British Railway Company's account. This railway, of course, is a very peculiar railway in its history, and also in its character; it was a very expensive undertaking, and there is a special bonus mileage for it in the North British Railway Rates and Charges Order, which deals with the North British Company's charging powers, which are applicable to the Forth Bridge Company also, and they are entitled to add 19 miles to the total distance in the mileage return and the revenues received from it. Historically the position is this, that the issued capital of the Forth Bridge Company stands at present at £2,325,000, out of a total capital, or out of total capital powers, of £2,425,000. It has also 4 per cent. Debenture Stock to the extent of £723,393, out of total borrowing powers of £808,332. A dividend of 4 per cent. upon the capital issued by the Forth Bridge Company has been guaranteed in perpetuity by the four railways interested in the Forth Bridge, namely, the Great Northern, the North Eastern, the North British and the Midland Railways. The Railway was originally promoted by an independent Company, and it included some lines on the north shore of the Forth, which were subsequently taken over by, or the powers in which were subsequently transferred to, the North British Company, with a corresponding diminution of the capital in the Forth Bridge Company. There is a curious statutory fund which was brought into creation in this way: Under the Forth Bridge Act of 1882, the North British Company was empowered to take possession of the Forth Bridge Railway, to maintain it, and to work it. There are two Acts of 1882, and one has to be sure not to confuse them. It is the Forth Bridge Act of 1882, which provides in Section 38 that "when and so soon as the railway shall have been constructed and shall have been approved by the Board of Trade the North British Company shall have taken possession thereof."

President: That is the railway. I thought you said it was the bridge.

Mr. MacMillan: The bridge is described as the railway. It is a work which is described as a railway over the Forth. "When and so soon as the railway shall have been constructed and shall have been approved by the Board of Trade the North British Company shall have taken possession thereof and shall for ever thereafter maintain in good working order and condition and work the railway in the same manner and with the same powers and obligations as if the railway formed part of the North British system and the Company shall maintain and keep in repair the structure of the bridge"—the company being the Forth Bridge Company here—"for carrying the railway over the Forth of Forth and all parts thereof except the

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permanent way thereon and the North British Company shall maintain and keep in repair all other parts of the railway including the permanent way upon the said bridge and all signals and signal appliances necessary for the working of the railway." So that the relation of the North British Company to the Forth Bridge Company was a singularly intimate one, as you can see. A curious statutory fund came into existence under the Act of 1882, in this way: when the Forth Bridge Company created and issued the share capital authorised by its Act of 1873, it did so at a premium of £2 per share, and the preamble, the Act of 1882, goes on to say this: "and whereas the company have created and issued the share capital authorised by the Act of 1873 . . . at a premium of £2 per share; and whereas out of the said premium a sum for payment of interest on the calls paid on such shares from the date of payment thereof until the completion of the railway has been set apart (in this Act called the interest fund)" so that the premiums which had been received in respect of those capital issues, that is to say, the premium of £2 per share, was under the Statute funded as a source from which interest might be paid upon the calls made on the shareholders during construction. Then with regard to the disposal of that interest fund, there is also a statutory provision, and that is to be found in Section 41 (C), and is as follows: "The interest fund as existing on the 30th day of June 1882 and after providing thereout for the accruing interest to that date shall belong to and be held in trust for the four Companies and the same shall be applied to or for their benefit respectively in relief of their said guarantees in the same proportions as those in which they are by this Act liable to guarantee the amount necessary to pay the interest or dividend asforesaid as from the said 30th day of June 1882."

Thus there came into existence a rather curious fund known as the Interest Fund, which had statutory sanction, and which was to be held for the benefit of the four guaranteeing companies and was to be applied by them in relief of their guarantee.

The capital position of the Forth Bridge Railway Company is this, that it is overspent on capital account and it has borrowed at 5 per cent. from this interest fund for capital purposes; and this £25,000 with which we are now concerned—and now I begin to approach the operative part of my rather long circuit—was borrowed from this interest fund. I understand that it was required for the purpose of compensating certain mineral owners whose works were approaching the foundations of the pier of the Forth Bridge—if I remember rightly, it was the Dalnelyth Oil Company—and which works if they had carried them further, would have threatened the stability of the bridge; and accordingly, in the usual way, counter notices were given and compensation paid. That £25,000 had therefore been spent in securing the stability of the structure of the Forth Bridge, but it was borrowed, as I have said from the Interest Fund, and the Forth Bridge Company accordingly has to pay 5 per cent. upon it to the Interest Fund which has been set up in this way that I have described. Now, what is the way in which the revenues of the Forth Bridge Company are dealt with? They are dealt with in this way: the North British Company works the Forth Bridge. I will still use the old term "the North British Company," although, of course, we all understand that it is a different company now; but it is simpler to describe it under its old name. The North British Company, as I say, works the Forth Bridge, and hands over to the Forth Bridge Company its mileage proportion of the total receipts less working expenses. That constitutes the revenue of the Forth Bridge Company, the company does not earn it itself, but it receives its revenues from the North British Company. Then, what does the Forth Bridge Company do with that money when it gets it? It keeps up the bridge other than the permanent way, as it must do; it pays its own administrative expenses and office expenses, and it also pays the inter-

est on loans from the statutory Interest Fund. In other words, it pays out of what it receives, *inter alia*, 5 per cent. on this £25,000 which was borrowed from the Interest Fund, and it pays interest and dividends to its shareholders and debenture stock holders, and if there is any surplus it goes to the North British Railway Company. That is how the two companies are at present situated *vis à vis* each other.

I think there can be no question that, so long as the railway companies were under Government control, it was perfectly proper that this £25,000 should be included in the sums upon which the Government was paying interest by way of compensation. The Government, as you know, was concerned only with the items above the line, and compensation was determined by the items found above the line; and, therefore, this item being in that position, it was perfectly proper that it should then be included. A question does arise—perhaps not a very easy question, but a question does arise—as to whether, when we are looking at the matter now from a different angle (namely, from the angle of the ascertainment of the standard revenue, which surveys the whole of the accounts of the company and not merely items above the line) it is equitable to include this £25,000 in the capital expenditure of the North British Railway Company.

President: You have not told us whether the Bridge Company is included in the amalgamation?

Mr. MacMillan: It is not included, Sir; it remains a separate company. Therefore, a question does arise as to the equity of retaining this £25,000 in the capital expenditure of the North British Railway Company, and I think I must ask my learned friend Mr. Wrottesley, what his view is about it.

Mr. Wrottesley: We take the view that it ought not to be in.

Mr. MacMillan: I am much obliged. Of course, I have one difficulty in dealing with the matter. I confess that equitable considerations always make a very considerable appeal to one's mind, but, on the other hand, the difficulty is that the matter is on a statutory footing here, and, as you know, we have in our previous proceedings encountered much difficulty from equitable considerations. I mean that matters such as double payments and so on do arise, and our benefits in the long run may depend upon where an item alights; it may be one way or the other. I suppose that when the Legislature framed this somewhat artificial scheme with which we are concerned, they could not have foreseen everything that might arise in the course of investigation, and they could not and did not legislate by anticipation for every possible contingency, and one has just this difficulty (which we have felt, I think, probably on both sides of the bar throughout this case) that here and there one finds a case where a literal application of the statute which we are considering will operate one way or the other in a fashion that seems to be inequitable. Strictly speaking, I think my position in law should be this, that this was a sum upon which the Minister informs us that he paid interest by way of compensation during the war; he did so pay it, and therefore it falls appropriately into this compartment of the Act. But there is a difficulty, and I will tell you exactly how the equitable difficulty arose. It arose in this way, that inasmuch as the surplus from the Forth Bridge Company goes to the North British Company, that surplus constitutes revenue of the London and North Eastern Company from other sources; everything which goes to diminish revenue from other sources places upon the trader a greater burden, because, as you remember, he has to find, through rates, what will yield the standard revenue after taking into consideration other sources of revenue. Therefore, I think I am right in saying that he has an interest to have the other sources of revenue as large as possible, in order that the funds to be received as the produce of the rates may be *pro tanto* diminished. The two things are in that position: if the revenue from other sources goes

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up, there is so much less to be found by the rates; if the revenue from other sources goes down, so much more must be found from the rates from the traders.

You will observe that before the surplus of the Forth Bridge Railway Company is ascertained, it is diminished by a sum of 5 per cent. on £25,000. If I have made it clear, you will see at once exactly how that happens. The £25,000 being borrowed by the Forth Bridge Company from the interest fund, the Forth Bridge Company pays 5 per cent. on it into the interest fund; 5 per cent. on £25,000 goes into the Forth Bridge Company's accounts before they render to us the surplus on their annual return; and therefore the Forth Bridge Company have, before the surplus payable to us is ascertained deducted 5 per cent. on £25,000. *Ergo*, that other source of revenue, namely, the surplus received from the Forth Bridge Company, is *pro tanto* diminished, and if it is *pro tanto* diminished, then, of course, the fund to be derived from the rates has *pro tanto* to be increased, and therefore the trader will have lost the benefit, at that point, of the increased source of revenue, and he will have to find or to supply us through the rates with this sum of money. Where the shoe pinches, I think, is just this, that if we put the £25,000, as the Minister has put it, into Compartment 58 (1) (a), and ask you to award us 5 per cent. upon it, you will observe that in point of fact we are getting it twice, because we should get it first of all under Section 58 (1) (a) as 5 per cent. on £25,000, and then, *secondly*, we should get it again in this shape, that under the rates and charges which you are going to fix, the trader would have to find the same sum over again, in respect that other sources of revenue would have been diminished by precisely the same sum. I hope I have made it clear to you; it is difficult just to catch it, but that is exactly where it stands. Therefore, through two different avenues, the same sum would be doing the duty twice over, and in that way the trader would be prejudiced. As you will observe, the Minister has made no comment upon the matter, but he has merely stated a fact and has left it for you to decide.

Of course, I am very reluctant, as you will appreciate, to suggest any alteration to the Minister's figures, because they have come to us with a certain sanctity. He has, however, drawn attention to this matter specifically, and I think, if I may say so, that the tribunal is entitled to have an explanation on the matter, as to how it has come into existence. The railway company, while maintaining the general position that the Minister's figures rendered to this tribunal ought to stand, would not object if in your discretion you saw fit to eliminate that sum from the North British figures (that is to say, from the London and North Eastern figures), rather than that it might be said that in consequence of this rather unexpected result of the operation of Section 58 (1) (a), the same figures are doing duty twice over, in our interest and to the prejudice of the trader.

There are two ways in which you might deal with it, Sir. You might, on the one hand, if you prefer it, just simply delete that figure altogether from Schedule C, diminishing the North British figures by that amount of £25,000 odd, or you might—and there is perhaps something to be said for this—retain it in Schedule C on the ground that the figures of the Minister were fixed, and then we might make a deduction equal to 5 per cent. of this capital outlay when we arrive at the charges included as working expenses under the heading of rentals and other fixed charges. It is as broad as it is long. One method leaves the figure untouched, but my instructions from the railway company are that we are not to take advantage of what we may possibly claim on the strict letter of the law. We are not to take advantage of the double crediting with this figure. In which way we are to exclude it from duplication is a matter for consideration.

If it is cut out altogether, it has rather the disadvantage of interfering with the Minister's figures. If, on the other hand, you leave the Minister's figures untouched, we will undertake to make a reduction in another part of our account comparable to the effect of including it and leaving it in Schedule C, as the Minister has given it to us. But it is simply a question of what is the more expedient course, the one is more logical, but the other has perhaps the advantage of simplicity. But one way or the other, my instructions are that we are not to ask that we shall get in in both ways. That disposes of the Forth Bridge Company, I hope, to the satisfaction of Mr. Wrottesley.

Mr. Jepson: Before Mr. Wrottesley speaks, may I ask one question? How is the other interest that is paid by the North British Company arrived at? Is it a fixed rate always?

Mr. MacMillan: It is the rate at which the Forth Bridge Company borrows from the interest fund.

Mr. Jepson: I understand that. But as to ordinary revenue, when you speak of a surplus, all the surplus revenue may be paid out to the ordinary shareholders.

Mr. MacMillan: No, it is a fixed rate of 4 per cent., a fixed 4 per cent. guaranteed dividend.

Mr. Jepson: After that, the surplus belongs to the North British Company. I understand that. Then on taking the interest account from which this £25,000 has been borrowed, the Forth Bridge Company pay 5 per cent. into that fund.

Mr. MacMillan: They do.

Mr. Jepson: That fund, after certain payments have been made, again goes into the North British Company, or is it still held in trust?

Mr. MacMillan: It is held in trust. (It is held in trust in order that it may be applied in relief of the guaranteees.)

Mr. Jepson: Then I suppose—and this is the point I was coming to—that if that is just held in trust and not distributed to any of the owning companies or any of the four Companies who make up this guarantee, I suppose that would be invested.

Mr. MacMillan: Yes.

Mr. Jepson: But it is invested, of course, for the interest of the Forth Bridge Company, and not for any of these other companies.

Mr. MacMillan: No, I think that is not so. It is invested for the trust fund; it accumulates.

Mr. Jepson: So neither the North British nor any of the constituent companies can use that.

Mr. MacMillan: That is so. It is a curious position; I have not met it before.

Mr. Jepson: So it cannot be said that the North British Company are getting the money twice in this way, that is, including it in this account as 5 per cent., and also getting it from the Company. What ultimately becomes of the trust fund I do not know that we need consider; but at first sight it did appear to me that in that way the North British Company might be getting a part of it. But it is quite clear that that is not so.

Mr. MacMillan: I see how that may appear to your mind, but this is a curious fund created out of these premiums held for the purposes provided for, and then held as a stand-by in case there is any increase of dividends which might necessitate a call on their fund.

Mr. Locket: And it is an accumulated fund, is it?

Mr. MacMillan: Yes, it is an accumulated fund, and it is of course dedicated by Statute to that specific purpose. It has been called upon in the past when a deficiency has arisen in the Forth Bridge Company. It may be called upon at any time if the Forth Bridge Company require it. If we have to step in under our guarantee in order to make up the 4 per cent. dividend on the Forth Bridge Company's issued capital, then we are entitled to resort to this fund to recoup ourselves. We have had to do so in the past, and we may have to do so in the future. But there it is; it is a fund we cannot dip into for any other purpose than that.

President: I do not know whether you would like to deal with Mr. MacMillan's submissions, Mr. Wrottesley.

Mr. Wrottesley: We should prefer to have it eliminated from the Schedule altogether. We think it is within the competence of the Tribunal to do it in either way, inasmuch as attention has been drawn to it in the Note to the Report.

President: Perhaps the representative of the Ministry of Transport might like to say something.

Mr. Hurcomb: I have nothing to say on that, except that attention was drawn to it in conformity with the Act, because it was not a line specified in the 1st Schedule to the Railway Companies Act, and you will remember that when Mr. Wood was in the box in another case, he drew attention to it there and said, in submitting the figures to you, the Minister would distinguish the amount relating to such a line. I have nothing at all to say on the arguments before you on this point.

Mr. Locket: You see no objection to it being eliminated from the figures which have been supplied by the Minister.

Mr. Hurcomb: I do not think so; I do not think it is a point for the Minister to express a view upon, one way or the other.

Mr. MacMillan: The Minister has been good enough to put it this way. He says: "I am called upon to state a fact," and, if I may say so, Mr. Hurcomb is perfectly correct. He has stated a fact, and the Court must deal with the fact as they please. Automatically I should have thought that once the fact is stated to you, your duty becomes ministerial, but, on the other hand, whilst that is so, one does not want any injustice to be done through the strict application of the letter. The other way of dealing with it, by giving credit in another part of the account, has the advantage of leaving the figure intact, but, after all, we are dealing with practical matters, and, so far as the companies are concerned, we are content to leave it in the hands of the Tribunal. Mr. Wrottesley asks that it should be just cut out altogether. The Minister says: "I have no view." So far as I am concerned, I am prepared to leave it in your hands as to what would be the proper course. You may prefer, as a logical matter, to leave the figures which have been certificated to you intact, on the undertaking given that no injustice will be occasioned with regard to this £25,000, because we will give credit for it elsewhere. But, so far as I am concerned, I am content to leave it.

Mr. Jepson: Do you say that it can be properly included having regard to section 58, which refers to constituent and subsidiary companies?

Mr. MacMillan: Curiously enough, it is not so. I think, if I may say so, you are conflicting 58 (1) (a) with 58 (1) (b).

Mr. Jensen: I was thinking of 58 (1) (a).

Mr. MacMillan: Just look at the wording. It says "a sum equal to 5 per cent. on capital expenditure." Now in this it does not say the capital expenditure of the constituent and subsidiary companies. It says "on capital expenditure." Now, what kind of capital expenditure? The capital expenditure which forms the "basis on which interest was allowed at the end of the period during which the constituent companies and subsidiary companies were in possession of the Government." These words are only brought in in connection with the definition of the period. It there refers to the constituent and subsidiary companies, not in the opening words with regard to capital expenditure by them, but as defining the time at which you are to look to see the capital expenditure on the basis that the allowance was made. Then the next one says "such allowance as may be necessary to remunerate adequately any additional capital which may have been raised or provided in respect of expenditure on capital account incurred since the 1st day of January, 1913, and not included in the expenditure referred to in the last preceding paragraph, unless it can be shown that such expenditure has not

enhanced the value of the undertaking." It is a different formula which is adopted there.

Mr. Jepson: Reading (a) in conjunction with the governing section: "equivalent to the aggregate net revenues in the year 1913 of the constituent companies and the subsidiary companies absorbed by the amalgamated company, together with," you do not think that that would limit the capital expended by the constituent and subsidiary companies.

Mr. MacMillan: I should submit not, otherwise you might get into considerable difficulties with a good many of the amounts or certain of the sums which the Minister allowed interest on. You may remember that the basis on which compensation was paid was this. I am referring to the pink book: "Definition of Capital Expenditure. Capital expenditure means sums charged to capital (including expenditure on Leased and Worked Lines), or in the case of land subject to a rent charge or feu duty, the capitalised value of such rent charge or feu duty, calculated at 25 years' purchase, in connection with:—(1) the first seven items in Account No. 8 in respect of lines, works, rolling stock and plant (hereinafter described as 'works, &c.'), brought into use during or subsequent to the year 1913, irrespective of the period during which the expenditure was incurred; (2) purchase money or compensation paid for mineral support acquired under the mining clauses of the Railways Clauses Consolidation Act, 1845, or similar statutory provisions, during or subsequent to the year 1913, in respect of Lines, &c., actually in use. The cost of any works replaced to be deducted from the capital expenditure on any new works upon the cost of which interest is charged." That is all it tells you.

Mr. Jepson: There is no limitation as regards constituent or subsidiary companies.

Mr. MacMillan: That is a perfectly fair observation.

Mr. Jepson: It is not perfectly clear, of course, in the language of the section.

Mr. MacMillan: No. There are curious variations throughout the section which are puzzling. One is taught to believe that when the Legislature uses different phrases, it means different things. I do not know whether that pious view is always justified, but at any rate it is what we are exhorted to believe. Now, at any rate, you are relieved, I think if I may say so, of any feeling that you are going to do an injustice to anybody by the attitude the railway companies have taken up here, and I trust that will commend itself to you.

I pass now to another item on which the Minister comments. I pass to the only other item which is the subject of observation by the Minister, and that arises in connection with the Great Western Railway Company. In the note appended to M.T. 3, the first page has this. "Included in the Great Western Company's figure is a sum of £355,306 in respect of Capital Expenditure of the Fishguard and Rosslare Railways and Harbours Company." That is an item upon which you heard a good deal of discussion at a previous stage and the discussion then arose in this way. The precise figure will be found in the Great Western Railway Company's R.T. 4, under the heading "Docks, harbours and ports, Great Western Railway Company, £355,306." There was much discussion on the last occasion with regard to the precise position of that figure. If you care to jot down the references, it may save you the trouble later on. I am not going to refer to them; I am going to put the matter afresh. The references to the passage at which the matter was discussed are Questions 1752 to 1790 and Questions 2019 to 2034. These two passages being in the learned Attorney-General's cross-examination—Sir Douglas Hogg as he then was—and Mr. Thomas's cross-examination. Then you will find at 125 a statement by Mr. Clauson of the statutory provisions. It is not necessary to refer to these, but one wants to get the whole of the inquiry in order, if one can, and get the references in shape.

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Now this item is quite different from the North British Company's item. The North British Company in truth, as I have explained, never found the £25,000 at all. It was provided out of that interest fund. This money with which we are now dealing, on the other hand, was found by the Great Western Railway Company. We may start, of course, with the fact that the £355,000 was included in the capital expenditure forming the basis on which the allowance was given. It has a note against it showing that its position is different from the ordinary capital expenditure of the Great Western Railway Company. That is true, but that it was expenditure and is expenditure of the Great Western Railway Company, remains the fact, because the relation of the Great Western Railway Company to the Fishguard and Rosslare Company is entirely different from the relation of the North British Company to the Forth Bridge Company. This sum was in fact expended on works at Fishguard, works which were authorised by the Fishguard and Rosslare Acts of 1899 and 1914, and the Great Western Railway Company found the money that was expended upon those works in this way. They were authorised by Parliament to supply money to the Fishguard and Rosslare Company in this way: to subscribe to that undertaking. What they did was to apply £355,000 in the period in question in the form of subscriptions to the Fishguard and Rosslare Company, and that subscription is now represented by actual works of that Company. You might say that that was nothing more than an investment of the Great Western Railway Company's funds in the Fishguard and Rosslare undertaking. But it is quite different from the ordinary investment; it was an application of the funds of the Great Western Railway Company expressly authorised by Parliament. They were authorised to do it, and the relation of the Great Western Railway Company to the Fishguard and Rosslare undertaking, I submit, is a very peculiar one. I shall venture to detain you for a few minutes while I describe it. In point of fact the Fishguard and Rosslare undertaking is really a joint adventure of the Great Western Railway Company and the Great Southern Railway Company of Ireland. It owed its inception partly to the fact that it had to be on both sides of the Channel in different territories, and therefore there had to be, so to speak, some unifying legal entity unifying the two parts of the undertaking, the part on this side, which was the Great Western Railway Company's part and the part on the other side which was the part of the Great Southern Railway Company of Ireland, and also the steamboat service in between. It was therefore a rather unusual Railway Company undertaking, and involved the co-operation of the Great Western Railway Company and the Great Southern Railway Company of Ireland. The means taken to overcome that, as we may now say, I suppose, international or inter-dominion relationship, was to set up this company called the Fishguard and Rosslare Company, which enabled the undertaking on both sides of the Channel to be unified as one undertaking. Now the series of Statutes relating to it indicate the nature of the Great Western Railway Company's association with the Fishguard and Rosslare undertaking. First of all the Fishguard Railway and Pier Company was incorporated in 1893, and then in 1894, under the Fishguard and Rosslare Act of that year, it became known as the Fishguard and Rosslare Railway and Harbours Company. Then in 1898 the Legislature, by the Fishguard Act of that year, provided for through bookings between stations on the Fishguard Company's line and stations and places on the Great Western Railway and the Great Southern Railway of Ireland respectively, and for the provision of an efficient service of trains in connection with the steamboat services, so that you could book from any station on the Fishguard line to any station on the Great Western Railway or any place on the Great Southern Railway of Ireland. Then by Section 88

of the same Act of 1898 the Great Western and the Great Southern of Ireland were authorised to subscribe for shares and debenture stock in the Fishguard undertaking up to £250,000 each, with a proviso that they should not dispose of any of the stock they might so hold. It was not treated as an ordinary investment; it was a permanent dedication of that money to that undertaking and they were not to be allowed to sell or part with their shares in any shape or form. The Fishguard Board was in the same Act constituted, and was composed of four Great Western Railway and three Great Southern of Ireland Railway directors, again emphasising what in truth was the fact, namely, that it was a joint adventure. Then in 1899 a further Act was obtained which authorised new works at Fishguard and also railways and works in Ireland and authorised subscriptions by these two Companies, the Great Western and the Great Southern of Ireland up to the full amount of the share loan capital of the Fishguard Company, so that these two companies had the intimacy of their relation with this statutory Company further imposed, that they were authorised to subscribe so that the whole capital of the Fishguard and Rosslare Company should be in the hands of the partners in this joint adventure. They were authorised to take, as a voucher, so to speak, of their interest in the undertaking, shares or debenture stock in the Fishguard and Rosslare Company, again with a statutory embargo on their parting with them in any shape or form. So that they were authorised to hold between them the whole capital of this undertaking and were under an embargo that they should not part with the stock or shares which, as I say, were in truth just vouchers of their interest. It was really the legal machinery by which this was carried out. Then provision was made that 31 per cent. on the capital of the Fishguard Company should be a first charge on the gross receipts, that is both of the local traffic on the Fishguard undertaking and of the through traffic on the Great Southern of Ireland undertaking. Then there was scheduled to that Act an agreement between the two companies, adjusting their rights and liabilities, and the effect of that statutory agreement was this, that the Great Western Railway Company became liable for the working, management and maintenance of the portion of the Fishguard Company's undertaking on the English side, including the steamboat service between Fishguard and Rosslare, whilst the Great Southern of Ireland Company took over the responsibility for the portion of the undertaking on the Irish side, and each of the two companies became liable to make good any loss on the portion of the undertaking under their individual control. So that there was a severance by statutory agreement of the interests of the Great Western Company and the Great Southern Company in this undertaking. You see how the thing is just going statutorily along, but all the time the relation is that the Great Western Railway Company has charge of the portion which is on this side, and the Great Southern Company of Ireland has charge of the Irish portion of the undertaking and is responsible for it. In 1903 the Great Western Railway Company and the Great Southern Company had imposed upon them a liability to jointly guarantee the interest of the Fishguard and Rosslare Company at 3½ per cent. per annum, and if the gross receipts of the local traffic on the Fishguard undertaking and of the Fishguard Company's proportion of the through traffic on the Great Western Railway and the Great Southern Railway, through, from or over the Fishguard undertaking, was found insufficient to pay this 3½ per cent., then the two partners had to find the difference; and there was again a statutory agreement scheduled to that Act which had this result: that as between the companies themselves, the Great Western Railway Company and the Great Southern Railway Company respectively, the Great Western Railway should be entitled to the receipts

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from the portion of the undertaking in England including the steamboat service and should be responsible for the interest due on the proportion of the capital due to meet expenditure on that portion of the undertaking and for all working and other expenses incurred in that direction, and similarly the Great Southern Railway of Ireland became entitled to the receipts on the Irish section of the undertaking and became responsible for the interest due on the capital expenditure on the Irish portion of the undertaking and responsible for all working and other expenses incurred in connection with that portion. Then in 1914 further works at Fishguard were authorised and additional capital was authorised to the amount of £300,000, with borrowing powers to the extent of half thereof, and that Act of 1914 provided that the capital so raised should be deemed two sections to meet expenditure on the English portion of the undertaking. The Legislature was always looking to the Company that composed the two sections to meet expenditure on the English section of the undertaking; and Section 37 authorised the Great Western Railway Company to subscribe the full amount of such capital, taking shares or debenture stock, but again subject to the embargo that they must not dispose of it in any way. So that the works which were brought into existence under the Act of 1914 were brought into existence by capital which the Great Western Company was authorised to subscribe, which capital was deemed to be capital, and was in fact capital, expended solely on works on this side; and that being so, the agreement previously entered into applied, namely, that the Great Western Railway became responsible for that whole section of new works on this side, became responsible for the interest on the capital so expended upon works on this side, and responsible for the working and maintenance of those works. The works upon which the £355,000 with which we are concerned here was expended were all works at Fishguard on this side of the Channel authorised by the two Acts of 1899 and 1914, and therefore in truth and in reality were works of the Great Western Railway Company because they had the whole responsibility for them. They find the capital; they are responsible for the interest on the capital so expended; they have the control of the works resulting from the capital expenditure in question; they must do the work and maintain the work and they are therefore in truth and in fact the persons responsible for this part of the undertaking of the Fishguard and Rosslare Company. The position, therefore, you see, is entirely different from the position of the Forth Bridge Railway Company. This sum was one upon which the Government allowed interest, and, if I may say so, most correctly allowed interest, because it was expenditure on which the Great Western Railway Company was entitled to look for remuneration. It was expenditure not made for philanthropy, but in order to earn revenue, and no doubt did earn revenue. It earned revenue no doubt in the hands of the Government, and it earned revenue in the hands of the Great Western Railway Company. It did occur to me that there might be a question of this sort. I am afraid it is only one of those amateur doubts which occur to one's mind when puzzling over these accounts. I thought you might have looked at it in this way: that if they got $\frac{3}{4}$ per cent. on that capital—

President: Was that the interest on the debentures?

Mr. MacMillan: Yes, $\frac{3}{4}$ per cent. on the debentures—that you might say that that was their revenue received from their investment; but that is quite a fallacy, because if you were to treat it in that way, as the Great Western Railway Company finds the $\frac{3}{4}$ per cent. itself, you would in point of fact just be rubbing the dog with its own tail. You do not get any return for the money expended, and if you were to eliminate it from 58 (1) (a) you would in point of fact exclude this whole sum of £355,000

from ever getting any remuneration. The whole of this procedure really is, as I submit, a legal formality throughout, necessitated by the peculiar position, and you have to have some legal entity combining the two. Therefore, you had to have this statutory arrangement, but the reality of the thing all the time is that the two companies are spending their money upon those works and are entitled to remuneration for the expenditure on those works; and all this superstructure which I have been describing is in point of fact nothing more than legal machinery necessitated by the circumstances.

Mr. Jepson: And the revenue and expenditure on this portion of the Fishguard Company's undertaking is brought into the revenue, the receipts and expenditure of the Great Western Railway Company?

Mr. MacMillan: That is so. Therefore the position is different entirely from the position of the Forth Bridge Company. This is a case in which, if there be any equity in these matters, it is entirely with us, otherwise this sum would actually go unremunerated altogether.

President: They get the $\frac{3}{4}$ per cent. on the debentures?

Mr. MacMillan: No; they do not even get that.

President: Do you mean the receipts are not sufficient to pay?

Mr. MacMillan: No. The $\frac{3}{4}$ per cent. will go to other sources, will come in as other sources of revenue, and if it is other sources of revenue it would *pro tanto* diminish the sum to be found by rates. Therefore it would not be represented in the rates to be received from the traders at all; it would go to diminish the amount to be received through rates. Then you will observe the thing cancels out in this way, that in Account No. 9 there appears a payment out to the Fishguard Company to pay our own $\frac{3}{4}$ per cent. so the two items are cancelled out in the accounts. We pay it and debit in our Account No. 9 what we pay over to the Fishguard Company to enable them to pay us the $\frac{3}{4}$ per cent. I do not know whether after that information my learned friend, Mr. Wrottesley, wants to make any remark?

Mr. Wrottesley: It may be that I do not follow it, but as I trace the history in the Acts of Parliament it seems to me there are objectionable things that might occur.

Mr. MacMillan: I shall not hurry my friend about it. I have given my friend the history as it stands, and I strongly suggest that here you should not touch the figures put to you by the Minister of Transport. This was an amount on which they allowed interest and allowed it rightly, and for the moment I cannot see any equitable answer to the claim we are putting forward here. I suppose, Mr. Hurcomb, the attitude of the Minister is just the same as in the other case.

Mr. Hurcomb: The attitude of the Minister is as explained by the Minister's witness in June last when before you, and so raised also in the Minister's statement. The interest was allowed in this case for the purposes of the provisions of the clause which says: "Capital expenditure being sums charged to Capital (including expenditure on Leased and Worked lines)." Whether expenditure allowed in that way for a company which is not included in the first schedule of the Railways Act is proper to be excluded under Section 58 (1) (a) is a point which the Minister leaves entirely to the determination of the tribunal. He is merely drawing attention to the fact, as he undertook to do.

Mr. Jepson: If this was quite an independent concern—one understands it has not been brought in as a subsidiary company—but if it were free of those arbitrary divisions which appear to be supplied by Parliament, then the position would be that the Fishguard and Rosslare Company would be bringing into account its own revenue, and debiting itself with its own expenditure, and out of any

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surplus that there was it would have to pay its obligations on the capital.

Mr. MacMillan: True.

Mr. Jepson: That is not the position to-day, but by these, shall I say, arbitrary divisions between the English side and the Irish side, the whole of the revenue derived from the English side is brought into the Great Western Railway accounts, the works expenditure of the English side is brought into the Great Western accounts, the amount they receive in respect of their investment, which is really paid out of their own pocket, as I understand from you they are responsible for the interest on the capital expended on the English side, also comes out and is shown as a payment out, and, as you say, they practically cancel one another in the accounts.

Mr. MacMillan: And the result of that is that, as the accounts are prepared now, if we do not get it under 58 (1) (a), this large sum of money will be entirely unremunerative.

President: But could not you go on taking your 3½ per cent.?

Mr. MacMillan: But we find it ourselves, unfortunately. We debit ourselves with the sum which we hand over to the Fishguard Company to provide ourselves with the 3½ per cent. It is entirely due to this, if I may say so. In a sentence, I think what Mr. Jepson has said is quite in order if you were dealing with an ordinary case, but we are dealing with a company which is dealt with in the whole series of statutory enactments which put the Great Western Company in a relationship to this undertaking which is entirely different from its relationship to any other undertaking, so far as I know, or any other case in this country, and the whole reason of it is the peculiarity of the situation. But when you strip it of what I call the legal technicalities of the position to get at reality, you find that in point of fact those works are works paid for by the Great Western Railway Company for which they are responsible and which they must maintain, and the revenue of which they receive, and therefore you have with regard to this work, so far as the Great Western Railway Company are concerned, all the incidents of ownership. You have the liability, you have the capital expenditure represented by those works, and you have all the features of railway ownership and of railway responsibility. In short, these works there are in a business sense, so far as the Great Western Railway is concerned, part of the Great Western Railway undertaking and in all other financial respects—

President: But if they are, they would be included in the amount. They are not part of the works of the combined undertaking.

Mr. MacMillan: That is so; and that being so, Parliament has made a practical severance which it has recognised in this case, and as a result of recognising that, to all intents and purposes this expenditure is expenditure of the Great Western Railway Company which must receive and should receive remuneration.

President: Could you tell me again—I was not sure that I got the right answer—do they get out of the receipts of the Fishguard and Rosslare Company 3½ per cent.

Mr. MacMillan: Yes, they do.

President: And whatever happens, they will still go on doing it because we have not any jurisdiction with regard to them; they are a separate Company outside our jurisdiction.

Mr. MacMillan: That is to say, dividend warrants would be sent out by the Fishguard and Rosslare Company to us.

President: As you explained it, you said the receipts on this side came into the accounts of the Company; that is, they took all the receipts of this side including the steamboat traffic. Then they are investors in debentures in the Fishguard Railway Company. Therefore they, out of their receipts, pay themselves the 3½ per cent., as I understand.

If you tell me that the receipts are not sufficient, that is another thing.

Mr. MacMillan: I do not say that.

President: Assuming that is the state of things, that state of things will go on, after the appointed day, and they will be receiving from this undertaking the 3½ per cent. on the debentures. If only want to get at the facts.

Mr. MacMillan: I still think, Sir, that I am right in saying this, that they will furnish the Fishguard and Rosslare Company with the sum necessary to pay the 3½ per cent.

President: But will they furnish it out of the Great Western Railway Company's funds, or take it out of the receipts of the Fishguard and Rosslare Company, which are no part of the receipts of the Great Western Railway Company?

Mr. MacMillan: They will place the Fishguard Company in a position to pay it out.

President: Then there is another question I want you to deal with. I am not touching on the question of whether you are right or wrong. Why, in the making up of the standard revenue for the Great Western Railway Company, should we include, so to speak, something for the Fishguard and Rosslare undertaking, because this is capital expended on the Fishguard and Rosslare undertaking for which they are receiving apparently 3½ per cent. interest on their debentures?

Mr. MacMillan: I speak subject to correction, but for this reason, that into the accounts of the Great Western Company with which you have to deal, the accounts, that is to say, which they compile under the Act, these items enter.

President: That is the only reason?

Mr. MacMillan: They are treated as part of the revenue of the Great Western Railway Company for statutory purposes, and it is that revenue which is to be maintained.

President: And if it is not in fact the revenue of the Great Western Railway Company there would be no reason for it?

Mr. MacMillan: That is quite true.

President: They still would have allowed it and you would have still got all your argument.

Mr. MacMillan: But the fact is this, that it does in fact represent the sum of money expended on capital account by the Great Western Railway Company, and not the Fishguard and Rosslare Company.

President: As soon as put into the investment of debentures?

Mr. MacMillan: As soon as invested in that fashion, on which they get 3½ per cent. in the way I have indicated. But owing to the way the thing is worked, owing to the way the accounts are compiled, they will get no return upon the £355,000 unless they get it under 58 (1) (a).

President: Well, then supposing they are not getting anything out of the 3½ per cent., you cannot control the 3½ per cent. being paid if the company is outside our jurisdiction.

Mr. MacMillan: May I put it in this way—it is my inability to express it right: what I am concerned with is, if it is not remunerated under (a) it will not be remunerated in any shape or form, and in particular will not be remunerated by the 3½ per cent. which you have allowed, but I confess I am incapable of explaining how it is, and I will not try, because I shall probably get into difficulties; I will ask the Accountant to see if he can do it. Apparently it is a matter that can be demonstrated, but I do not quite see it myself.

President: You do not mind my asking these questions?

Mr. MacMillan: Not at all, Sir; they are most helpful. I am venturing to treat the matter a little informally, because one wants not to be rhetorical but to get on with the business. If the Accountant can satisfy you that it is not remunerated then you will see it is a very important thing for the Great

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Western Company. On your hypothesis, Sir, it might not be so serious; however, I have given you, I think, at least what I may call the materials for judgment; I have indicated how the thing has come about, and the precise effect I will leave the Accountant to deal with.

These are the only matters which are noted upon the tables by the Minister, but there are one or two other topics that I think I ought to deal with before I sit down, and there is one that is just a little puzzling; it is not noted by the Minister, and I do not know whether my learned friend has any observation to make upon it, or whether I am going to spring a generous surprise on him. I do not know whether my friend has noticed the point with regard to the capital value of the rent charges.

Mr. Wrottesley: Yes.

Mr. MacMillan: We noticed that also. May I explain to you quite shortly how that arises; it is not a very big item, but it is worth noting. The Minister's arrangement with us, as you will recall from what I read a little while ago, was that the capital expenditure means not only sums charged to capital but also in the case of land subject to a rent charge or feu duty the capitalised value of such rent charge or feu duty calculated at 25 years' purchase. Therefore, when the Minister found that there were any of these rent charges or feu duties in existence, annual payments that is to say made by the railway companies for land, he capitalised these at 25 years' purchase on the 4 per cent. basis, and he then brought those capitalised figures into account and treated them as part of the total sums upon which the allowance was made. In the Minister's figures before you to-day (though that point is not alluded to in any way by the Minister) it is perfectly plain that there is included the capitalised value of rent charges or feu duties, because he paid upon those capitalised values; therefore in certifying to you the fact that what he paid upon included those capitalised sums it was perfectly proper that those capitalised sums should be included in the figures upon which the compensation interest was paid, and again for this reason, that the sole concern of the Government was with the items above the line. It may be, and I rather think it is the fact, that when you look at this matter from the point of view of our present problem, these difficulties take a rather different aspect. I imagine that these items for rent charges or feu duties arise for the most part, if not entirely, in connection with the acquisition of land in Scotland. When you buy land in Scotland you may go about it in two ways: you may either buy outright and pay a capital sum down and get your title, or you may get your land in consideration of an annual payment known as a feu duty. Some land is bought in one way, and some the other. The feu duty represents the annual return and the nearest analogue I know to it in English law is the ground rent, but it is very different in its incidence from a ground rent, because the person who acquires land under a feu charter in Scotland (there are also feu contracts and feu dispositions, but never mind about that) in consideration of an annual payment becomes the fee simple owner of that land, the absolute owner of that land, and the person who has feued the land to him remains merely what is known as his superior—a vestige of the old feudal law—a person who has certain rights with regard to the land. The person who has acquired the land is the feuer or vassal, but the right that is acquired in return for the payment of an annual duty in Scotland is the full right of property. I think that is probably rather different from the position of a ground rent in England. Therefore, when persons are setting out to buy land in Scotland they may either get a disposition from the last owner, in which case they pay a sum down and get the land, and they become in turn the vassal of the previous superior, or they may, if they please, obtain a feu charter and pay an annual sum, and if they pay the annual sum they become the pro-

prietor in just exactly the same way. A railway company, like anybody else purchasing land, may choose one or the other method. If the railway company wants land it may pay a sum down for it and get a title in that way, or it may, at the option either of the landed proprietor or of themselves, say: "No, we will take the other form of title, and we will pay a feu duty annually in perpetuity and acquire the land in that way." In either case, they are acquiring land; in either case they are getting actually a capital asset, namely, land, but they are purchasing it in the one way for a perpetual series of annual payments, or they are purchasing it in the other way for a sum down; but in either event they are getting a capital asset. The way in which the Minister dealt with it was to capitalise these feu duties on a 25 years' basis and then allow interest upon them. But when you come to look at the matter from our personal point of view and take into account, not merely items above the line, but also items below the line, here again I confess it is difficult to justify the inclusion of these capitalised rent charges or feu duties in the account that we are compiling under 58 (1) (a) in a question with the trader, for this reason: these rent charges, or feu duties, are debited in another account; they are debited to "interest, rentals, &c." as part of the outgoings of the railway company. Therefore the result is this, that we are debiting these as outgoings of the Company to be found therefore through the medium of gross revenue of the Company of course, to be found in turn from the rates and charges imposed upon the traders, and we are also asking on the letter of this that they should find 5 per cent. upon the capitalised value of those rent charges, or feu duties. That appears to me to be another question rather like the Forth Bridge instance of a duplication which results from the language of the Statute. Here I do not think anybody can say that the letter of the Statute is not with me, because there is no doubt whatever that this was capital expenditure forming the basis on which interest was allowed, because that basis can only be arrived at from a reference to the actual contract between the railway companies and the Government, and when you go to the actual contract between the railway companies and the Government you find what, for the purposes of this section—because it is imported manifestly from the Pink Book—is that system of compensation allowance. There is no doubt whatever that these capitalised rent charges and feu duties form the basis on which interest was allowed, and therefore the Minister very properly has returned the capitalised value of these feu charges to you as being what he considered, and was bound to consider, capital expenditure for the purpose of giving you the basis on which he allowed interest. The fact, therefore, corresponds exactly with the relations between us, but again, I do not know whether it is due to scruples of conscience or not, it does strike one as at least rather inequitable that the same figure should come in as a capitalised sum upon which interest is allowed under 58 (1) (a), and then their annual charges which are capitalised for that purpose should appear as part of the outgoings of the company in another account and have to be found over again by the gross revenues to be earned by the charges. There again I am in this position, that the railway companies instruct me to say that while I am in no way to make any concessions upon the letter of the law in argument, in point of fact they would be prepared to consider this matter in a question with the traders, just because I suppose they flinch from the actual result of the thing which seems inequitable. I certainly suggest that this figure which is easily ascertainable—this ingredient—might be dealt with in one or other of several ways. First of all, you might leave the Minister's figures intact, as I suggested you might do in the Forth Bridge Case, and you might accept an undertaking from us that we would deduct in our other accounts as a debit the amount of the feu duties and rent charges payable. We could do it in that way. We would

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deduct the amount of the rent charges and feu duties which for this part of the account had been capitalised and allowed for at 5 per cent., and we should deduct them from the subsequent part of our account, leaving the Minister's figures and seeing that a counter credit was given at the other part of the account, so that you would not have to raise those feu duties over again for us out of rates. That is one way of doing it. Another way in which it could be done would be, of course, just to knock the figures out altogether, and there is yet a third way in which it could be done: it could be retained in paragraph (a) but brought in under paragraph (b) as a credit; I think that is the right way to put it. It is a choice again of which is the best way to do it. I think there is a good deal to be said for the idea of leaving it in the Minister's figures, and then when we come to compile the other part of our account not to debit the traders with the amount of the rent charges and feu duties in point of fact paid and which are capitalised for this purpose, but to give an undertaking to exclude at that stage of the calculation those rent charges and feu duties. That has the merit of leaving the Minister's figures intact. However, my learned friend will indicate to us later on what views he has about it, but there again I think he will recognise, and I hope he will recognise that we have approached the question from a fair point of view, anxious really to get at the figure upon which we are entitled to this 5 per cent.

Mr. Jepson: The result of the capitalisation of these amounts by the Minister of Transport has not been brought, suppose, into the capital received account of the companies?

Mr. MacMillan: No.

Mr. Jepson: One would imagine it could not be when you are also paying out the rent charges.

Mr. MacMillan: No, it could not be.

Mr. Jepson: It has never been treated as capital received, so far as the railway companies' accounts are concerned.

Mr. MacMillan: No, it has not. It is a capital asset which is represented by an annual payment.

Mr. Jepson: To deal with it in the way you suggested, and leave it in the Minister's figures, and then for the purpose of arriving at a standard revenue leaving out the amounts of rent charges and so on which are due on these moneys, would mean dealing with it like that every year.

Mr. MacMillan: Yes.

Mr. Jepson: It would be a permanent arrangement, would it not?

Mr. MacMillan: It would have to be; that is perhaps a disadvantage in some ways.

Mr. Jepson: I do not know; it may be advantageous or disadvantageous.

Mr. MacMillan: From the accountancy point of view. I was not really thinking of it from the financial point of view.

Mr. Jepson: It might be a disadvantage to the accountants always to remember that they had to leave out these particular rent charges year after year. I do not suppose they would do it in their annual accounts, but it would simply be for the purpose of arriving at what is the revenue each time. They could not leave it out really under the Accounts Act.

Mr. MacMillan: I follow that. That is quite true, and it is a little embarrassing because the published accounts have to show the whole outgoings. It would have to show the whole of these rent charges and feu duties and not a modified sum. It would have to be done, so to speak, in a question with the trader; it would be a special transaction.

Mr. Lockie: There is always some risk of it being overlooked.

Mr. MacMillan: I rather think the simplest plan would be just to knock it out altogether. That figure we will get an adjustment of with the Minister of Transport, that is to say, the ingredient in these figures before you which represents the amount of capitalised rent charges and feu duties, and that

should be excluded altogether from the sum upon which 5 per cent. is proposed to be charged.

Mr. Wrottesley: That meets me.

Mr. MacMillan: My learned friend says that meets him; I do not know that it is a very large concession on his part; but I shall look for something from him by way of generous recognition from him later on, possibly.

There is little else left, but there is one point—I do not know whether my friend is going to offer any observations upon it or not—and that is the question of the "J" Joint Lines, that spectre which has haunted us throughout the whole of these proceedings, because of the particular position in which they stand. The Minister has in the tables which he has put before you separated out the ordinary constituent subsidiary companies from the "J" Joint Lines; he has given you two tables applicable to each company. The Minister—the Government, in point of fact—pay compensation money upon all those sums which you see under the heading of "J" Joint Lines" under each company, and the method upon which we have been proceeding throughout in this investigation has been to deal with the "J" Joint Lines along with the principal companies. You may remember that in the compilation of our figures—let me take "R.T. 2a" for the moment—it was decided with the approval of all parties that the total net income, being item No. 1 on Folio 1, should include the receipts from the "J" Joint Lines, and not that at a later stage of the accounts the "J" Joint Lines figures should come out; that is to say, that in taking the model year upon which you are to proceed there should be a deduction in respect of the "J" Joint Lines for this reason, that as you know the "J" Joint Lines continue to exist, and you are not fixing their standard revenue and you are not fixing their rates and charges at the moment; that will be a subsequent task under Section 33 of the Act of 1921: "As respects railway companies other than amalgamated companies and light railways whose powers of charging have," and so on; "the Rates Tribunal shall apply to each such company the schedule of charges of such one of the amalgamated companies as, after considering any objections thereto which may be lodged within the prescribed time and in the prescribed manner, and after giving the company in question and all other parties whom they consider to be entitled to be heard before them an opportunity of being heard, appears to the Tribunal to be most appropriate to the case of that company, and may so apply it without modification or subject to such modification as the Tribunal may think fit." So that when you have got the schedule of charges for the four amalgamated companies, you will have to consider what is to be the schedule of charges for the "J" Joint Lines, and the method of procedure at that stage will be to consider which of the four schedules of rates and charges which you have fixed is the most appropriate to the particular "J" Joint Line, and you will then direct that it be applied to the particular "J" Joint Line, subject to any modifications which you may think proper after hearing the parties. Further, the "J" Joint Line company is, as you see, an entity by itself which is to have its own charging powers granted to it by you at a later stage, but inasmuch as receipts from the "J" Joint Lines come into the accounts of the parent company, and inasmuch as the capital of the "J" Joint Lines is found by the parent companies, we have thought that the best method to proceed upon throughout has been in the first instance to include the "J" Joint Line figures, and, later on, to exclude the "J" Joint Line figures, and that I think had the approval of yourself and your colleagues, and is the basis upon which we have all proceeded, and therefore, as I say, in Folio 1 of "R.T. 2a" and the other books, when we set out the net income as per account No. 8 of the published accounts, we included income derived from the "J" Joint Lines with a note that when we came to deal

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with a year later on, we would have to deduct the revenue for the "J" Joint Lines, because that would be found under another tariff, namely, the schedule of charges which you are going to adjust for that company; but it seemed the only workable method on which to proceed. We really in effect exclude it in a question with the traders by bringing it in with other sources of revenue; that is the way in which it works out practically. Having made that preamble, may I just refer to what you have said in your decision on the 31st July last on this subject. Perhaps I might read first of all from page 323, where you are dealing with the words "annual net revenue," and you say this: "We do not dissent from the method employed by the railway companies by items No. 1 and No. 2 in the first folio of R.T. 2a to R.T. 5a of ascertaining so much of the annual net revenues referred to as represents the aggregate net revenues in the year 1913 of the constituent and subsidiary companies, and we desire that the Inquiry should be continued upon these lines. No further definition of this term seems to be required." Pray note that the method employed by the railway companies by Items 1 and 2 was to include the Joint Line revenues; that was made of course abundantly clear at the time. That method was so clearly accepted as the proper way of going about it that I think you will find no cross-examination on that at all, and you therefore gave your approval to it, at least you found nothing in it to find fault with. Then may I ask you, Sir, next to look at the paragraph on page 326 in the right-hand column, where you say this: "It should not overlooked that provision is made in 'Account No. 4' for 'subscriptions to other companies.' Loans to other railways (excluding the case of 'J' Joint Lines) might similarly be in the nature of subscriptions under statutory authority to other companies or temporary investments which could not be treated as 'expenditure on capital account.' The expenditure on capital account includes advances for capital purposes to a 'J' Joint Line, where the net revenue of that line, or a share of it, is brought into the account of the company making the advance." I take it, therefore, that what was in your mind was that this expenditure made by the parent companies for the purpose of their "J" Joint Lines in which they were interested was to be treated as capital expenditure of the parent company for the purposes of the present Inquiry. The fact which the Minister has certified is that interest was paid upon those sums as part of the allowance made, and when you turn to the railway account, that is to say, the forms under the Act of 1911, you will find the item which you have in mind was in Account No. 4. This is: "Receipts and expenditure on Capital Account," and you will find there the first group of items relate to "Expenditure on lines open for traffic," "Lines not open for traffic," "Lines leased," "Lines jointly owned," "Lines jointly leased," and so on. Then away down at the bottom of that you will find a different item: "Subscriptions to other Companies (For details see Table 4a)," and then 4a gives you the details of subscriptions to other companies, but the expenditure on lines jointly owned, or jointly leased, is treated as expenditure on capital account of the parent company, and that is just what you draw attention to in the course of your Judgment at page 336. Therefore we submit that these figures which are given in each case by the Minister, on the second page of his tables, properly come into account for the purpose of compiling the sums on which 5 per cent. is to be given under Section 58 (1) (a). In so proceeding I cannot see that we are doing anything which could have an unjust result. We are pursuing precisely the method upon which these accounts have been compiled from the outset, and I submit that you should give your approval to it. I do not know whether my learned friend, Mr. Wrottesley, has any observation to make upon this point. He does not seem to be able to find any fault with what I have said upon this topic, but if there is any criticism to make I shall await it and endeavour

to deal with it, but for the moment it seems that we have proceeded rightly here as we have from the beginning in including in our Schedule C the "J" Joint Line figures, and that has the advantage of corresponding with the fact that these figures have formed the basis, or are included at least in the basis, upon which allowance was given by the Minister during the period of Government control, and therefore it seems from every point of view proper that you should include them in your final fixing of the sum on which 5 per cent. is to be allowed under Section 58 (1) (a).

Now I think I have covered all the ground which it is necessary to go over. I had hoped that your task might have been even simpler in dealing with Section 58 (1) (a), because I think we have all rather assumed that we would simply receive a statement from the Minister upon which nothing more need be said, and that we then had merely to do a sum in arithmetic, but as so often happens when you come to examine the problem, it is not absolutely so straightforward as that. I have picked out, to the best of my ability, all the topics upon which you would wish information, and which have occurred to us as properly to place before you before you put the seal of your Tribunal upon the figure. The points are not many, as you see, and there are concessions which I have given to-day by which I think your task becomes much simplified, and I rather hope that before we part to-day you will be in a position practically to place your seal upon the figure which is to be in this compartment, and we shall at least have got one compartment of the case complete and finally finished. I would now invite my learned friend Mr. Wrottesley to make any observations he wishes to make upon these topics, or to state any other criticisms or comments which I may have overlooked, that he may wish to place before you.

The President: Might Mr. Hurcomb make a statement before you begin, Mr. Wrottesley?

Mr. Hurcomb: I do not wish to interrupt Mr. Wrottesley, but I would like to say one thing which may save misapprehension if I state it now. It should not be inferred from what has been said on behalf of the railway companies that in submitting the statement which shows the total figures of capital allowed to rank for interest under the railway agreements that the Minister has decided any question of allocation as between railway and dock, to use the example which was given, and I think if I might I would make clear what it is that the Minister has done. He has obtained from the companies the figures which they have allocated to the various headings of railway, dock, omnibus, canal, and so forth, and has verified those as figures, and in his statement he has taken the allocation made by the constituent and subsidiary companies. There is only one exception to that: in one case the figures show an allocation which we are informed had been decided upon by the constituent company though it had not been actually made in its own published accounts. I want to make it clear that the Minister has followed the allocation made by the companies of those sums verifying them by reference to their records. I think there can hardly be a question of divergence of view, because the Minister has not really ruled as to what his view is as to the way in which this expenditure should have been, or ought in future to be, allocated between one heading and another. That, of course, is a question which might have to be dealt with at some other time—I mean as to what should be dock and what should be railway, but for the present purposes the Minister has followed the allocation of the companies and verified them, and the differences which arose on two of the companies were that we found that the original figures did not quite correspond with those allocations of the constituent and subsidiary company. That is the extent of the alteration we made, namely, to get them back after verification of them as figures, into the same divisions as were originally adopted by the companies themselves. I hope I have made that sufficiently clear to you,

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Sir, and I think it right to mention it now in case misapprehension might arise hereafter.

Mr. MacMillan: Might I just say on that, of course I accept all that Mr. Hurcomb has said on behalf of the Minister. I think we might leave it at this, that those allocations of the sums into the different headings will not be treated by either of us as being in any sense a final or considered view either of the railway companies or the Minister upon this matter. Those allocations are, I think, irrelevant to your present purpose, because I do not think any question arises on them here and now. Therefore, although they have been made and may be of some interest we shall leave this Tribunal on the basis that those are not to be founded upon either by the Minister against us or by us against the Minister; and the position will therefore be left intact.

Mr. Hurcomb: I quite accept that. I merely intervened because I understood that the contrary had been said.

Mr. MacMillan: I rather misunderstood my friend. I thought that those were to represent the considered view of the Minister, but I withdraw that now, and we shall leave it on the basis that they shall not be founded upon either way.

Mr. Wrottesley: May I please you, Sir, the position of the users of the railways, for whom I appear, to some extent in this case is that first of all, there are one or two matters of machinery that I should like to raise—I think they are matters as to which the railways will be quite easily able to meet us—and then there are one or two points of principle arising on the matters dealt with by Mr. MacMillan in his address to the Tribunal to-day.

As a matter of machinery may I say this: we think that we ought to have in some shape or form a reconciliation statement reconciling the original claim under Section 58 (1) (a) with the claim as it is now proposed to be put before the Tribunal. That we should desire amongst other reasons for the purposes of identification of items, whereas the Tribunal will remember that amounts under Section 58 (1) (b) and amounts under Section 58 (1) (c) are only to be given in the event of their not being already covered in 58 (1) (a). Therefore, purely as a matter of machinery, I am going to ask that the railways should at a convenient moment to themselves give us a reconciliation statement for that purpose. I think it will be seen that that is not a controversial matter.

Upon what I may term the more controversial matters, my learned friend has already met me more than half-way in regard to two of them. The first was the question of the Forth Bridge, and the other is this matter of the capitalised value of rent charges capitalised on a basis in the Pink Book. So far as both those are concerned there is nothing left between us in principle, and there again all that is left is machinery. But I do ask, and I ask most emphatically on behalf of the users, that as you are going in effect to decide this point to-day you will not merely decide it but give effect to it to-day, and give effect to it by striking it out if necessary from the certificate, or, at any rate, from the amount which you pass. After all, you are not passing a certificate; you are passing an allowance, and in drawing up the allowance I am going to ask you to give effect to what is in effect to-day the view both of the railways and of the traders, and I am going to ask you not in any shape or form to postpone that decision till a later time.

The President: Must you have it done to-day?

Mr. Wrottesley: No. I am asking you to give effect to it now.

The President: I thought you said you would not brook any postponement at all?

Mr. Wrottesley: No, Sir; I am not dealing with postponement, or anything of that kind. I am asking you not to do what was suggested, namely, to pass the figure as it is submitted to you to-day in the Minister of Transport certificate, and to postpone to some later stage certain modifications which would result from your passing it to-day in that

form. I am suggesting to the Tribunal that you shall not do that, but that you shall take the alternative offered to you by my learned friend Mr. MacMillan which would result in your disposing of the matter once and for all to-day, and in such a way that there will not be ever hereafter any further discussing of this matter. It is a matter which I understand the railways attach no particular importance to, and in those circumstances as we do attach considerable importance to it as a practical matter I ask that the matter may be dealt with in that way by modifying the allowance you make under Section 58 (1) (a).

The President: That will dispose of the Forth Bridge and the rent charges.

Mr. Wrottesley: That will dispose of the Forth Bridge and the rent charges; that is all that is between us on that point.

That leaves two or three other matters, two of which have been dealt with by my learned friend, and one of which has not been dealt with by him. Perhaps it would be best that I should deal first of all with the one which, as I understand it, my learned friend has not raised, to give him an opportunity of considering the matter, for it may very well be that either I may be on a false point, or it may be a point that has not been brought to his notice, and which he would be willing to deal with. The point is this: to use the words of the Act, when the interest was allowed by the Government under Section 58 (1) (a) upon a sum of capital expenditure, some of that capital expenditure taking place prior to 1913 and in respect of works which were brought into use in 1913, it was recognised by both parties, both the railways and the Government, that as a result of that in the 1913 revenue there would be here and there found elements representing an earning by such works brought into use early or late in 1913. In fact, the Fishguard and Rosslare expenditure happens to be an instance of what I am asking the Tribunal to deal with, because if I remember right, it was indicated to us by Mr. Cope that that was a work where some of the expenditure was prior to 1913, and the work was brought into use in 1913. It is obvious with regard to a work of that kind that if it were brought into use in 1913 you will find in the accounts of the period of 1913 some earnings from that work. What we are endeavouring to arrive at throughout in this Section 58 is the 1913 revenue adjusted where it ought to be adjusted, and therefore, as I submit, to the extent to which works were brought into use in 1913 (let us take the hypothetical case of works brought into use on the 1st February, 1913) it would appear to be likely, and indeed almost certain, that the 1913 revenue will contain a considerable amount of revenue from that particular work. If you will turn, therefore, to Command Paper 1132 at the bottom of page 26, which deals with interest on capital expenditure, the last paragraph but one, you will see is: "Agreement on this basis was eventually reached, and clauses recording the arrangement agreed upon were incorporated in the Pink Book. The main features of the arrangement were as follows: (1) Interest to be allowed upon all sums properly chargeable to capital and actually so charged expended upon (a) works (including land) rolling stock and plant brought into use since the 31st December, 1912." You will observe that would include works brought in during 1913. Then (2) is: "Interest to be at the rate of 4 per cent. per annum for the whole period of control. (3) Interest to accrue from the date on which the works, &c., are brought into use before that date." Now these are the words: "Appropriate adjustments to be made in respect of the works being brought into use during the standard year 1913 which affect the net receipts during a portion of that year." As you will observe, in some way the Government gives effect to that by adjusting the amount of interest, as I understand, and, I believe, following it out in the Pink Book, as far as I can understand it—it is very

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difficult, long after the matter has taken place, to follow it—it appears to have been done in this way, that the interest allowed on all work brought into use, let us say, on the 1st April was only in respect of the three months January, February and March. I am not quite clear about that, but as far as I can follow it, that appears to be the way in which that adjustment was made. If I am right in this the work in question instead of receiving the year's interest only received less than three months' or a quarter of a year's interest. I am not sufficiently in the confidence of the Ministry of Transport to know whether, when they arrived at the capital expenditure forming the basis on which interest was allowed at the end of the period, they dealt with the matter purely as a matter of accountancy and, if that is so, it may very well be if interest was only paid on a quarter of that expenditure no injustice has been done to the traders. If, on the other hand, finding an interest payment covering, let us say, only three months, because for the other nine months in 1913 the work was fully remunerative, if instead of taking that work upon which an allowance of three months' interest be made and not a year's interest, they had gone to the work and looked, let us say, at some bridge or railway or dock and taken the whole of that calculation, then it will be seen that an injustice will have been done to the trader in this way, that the railways will be receiving in the 1913 receipts not merely the remuneration which the work in question was actually bringing in, but, in addition, by bringing in to this "R.T. 5" amended and revised the whole of that expenditure they will be getting their remuneration twice over to that extent. It appears to me, as I say, that something of that kind was done; some adjustment of that kind was clearly imposed by the Government upon the railway, and I suggest it is exactly as equitable as those other matters which are alluded to by my friend Mr. MacMillan, that there should be a corresponding adjustment made in favour of the trader here. Otherwise, as I understand it, there will inevitably be a double remuneration. I do not know whether I have made my point clear to my opponents or to the Tribunal, but that is all I have to say upon that point.

Before I pass from it, may I just say this, as a matter of principle, and to this extent I am in agreement with my friend, Mr. MacMillan: I do not attach the same sanctity to the Certificate of the Minister of Transport that he does. I hope I am not lacking in proper respect for departments like the Ministry of Transport, which govern us, doubtless, for our good, but I do suggest to this Court that they are bound and certainly entitled, if not bound, to see that what is covered in the Certificate is, in fact, capital expenditure. Those are the words in the Act of Parliament, and it is that and nothing more that you are bound to give. It appears to me that some of these difficulties, which my friend, Mr. MacMillan, drew attention to this morning, disappear if we are not tied hand and foot to the Certificate which has been given in the circumstances in which it has been given by the Ministry of Transport. It is certainly the privilege, if not the duty, of this Tribunal to see that, in fact, expenditure is capital expenditure, and to see that it was, in fact, expended, and, as I submit, expended by the companies referred to in the governing part of the section, namely, a constituent or a subsidiary company. Then it is also, in my submission, for this Tribunal to see that such capital expenditure forms the basis of interest paid. Every one of these matters, in my submission, are in the province of this Tribunal, and it is because they are within the province of this Tribunal that I submit the Tribunal will have no difficulty in acceding to my original request, or rather my second request this morning, of dealing with matters here to-day, and in the allowance under Section 53 (1) (a) I submit you are not in any sense bound by the Certificate except as a matter of figures or as a matter of calculation. If you find that the Minister of Transport

has proceeded upon a misapprehension in any matter, be it upon a question of rent charges or be it upon a question of, let us say, payments by the Fishguard and Rosslare Company, or be it upon such other matters as were alluded to by my learned friend, in all of those cases, in my submission, it is entirely within the province of this Tribunal to deal with them.

I have dealt now with the only matter as to which my learned friend, Mr. MacMillan, had not already made his suggestion to the Tribunal. Then there are two matters from which I can pass, because they are agreed, and that leaves the only other matter of importance, I think, to deal with, the case of the Fishguard and Rosslare Company. I list with great attention to the account of the transaction as given by my friend, Mr. MacMillan, but there is one matter which perhaps he or those who instruct him will enlighten us upon, and it is this: in the inquiry which was held when this matter was dealt with, we clearly understood from Mr. Cope, who dealt with this matter in the proceedings at Question 2034, that the Stock had not been issued, and before I make my submission I should very much like to know whether we are still in that position. You will find this at page 120: "We have found the money for the Fishguard Company under our powers, and we have not yet received Stock for it, and until that day comes we shall not charge it as capital expenditure." I should like to know, in order to make my submissions upon this matter to the Tribunal, whether that is the position to-day.

Mr. MacMillan: I believe it is, but I think the more satisfactory course would be that you should have the proper assurance through a witness on the matter. We decided to discuss the general questions here, calling evidence on any matters of detail.

Mr. Wrottesley: It is only to simplify my submission. It appears to me that a very important matter of principle will arise on that matter alone, and for this reason: I had been sufficiently industrious to endeavour to track out the history of this Fishguard and Rosslare Harbour undertaking, so far as it can be tracked out through the Acts of Parliament which have been alluded to, and I was struck by that upon which so much stress was laid by my friend—the fact that these railways are apparently directed by the Act of Parliament, if they subscribe to the capital of the Harbour Company, if I may call it so, that they are never to alienate that capital. Of course, it is also to be observed, and I think my friend will agree with me here, that that is not the only way in which this railway company was enabled to assist this Harbour Company. They were allowed to do three things so far as I can find in each case: they were allowed to subscribe for inalienable shares or stock; they were enabled to subscribe for debenture stock, also inalienable; but there was a third course which was always left open to them, and that was to advance the money if they chose upon mortgage. I do not know whether there has been any mortgage in this case, but it does appear that it is that last course that has been taken, and that the Harbour Company has been financed practically by means of loans. If that is the way in which they have been financed, and if no stock has been issued, the position, as I understand it, is that it is quite possible for all that money to be repaid by the Harbour undertaking to the Great Western Railway and thereby that capital will be refunded; and if you regard it as capital expenditure it will be wiped out. So far as I can understand it, there will be nothing whatever to prevent the Great Western Railway Company having been put into that position by the return of the money from distributing the whole of it by means of dividends or in any other way they please.

Mr. MacMillan: Might I make a suggestion to Mr. Wrottesley for the benefit of us all. My friend is proceeding upon a certain hypothesis; if that

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[Continued.]

hypothesis is not well founded, my friend's argument is otiose, and therefore it might be better to postpone this until we have heard what the facts are. In point of fact it has all been issued and none of it is mortgaged; therefore it would be rather otiose for you to argue on that assumption.

Mr. Wrottesley: That is why I asked. Then there has been an issue since Mr. Cope's evidence?

Mr. MacMillan: Yes; it is in the Great Western's accounts. I did not like to say it myself without verifying it; it is not my own knowledge.

Mr. Wrottesley: It has been issued since; it is debenture stock?

Mr. MacMillan: I did not want to state it, because I do not know it of my own knowledge; I am there-

(After a short adjournment.)

Mr. Wrottesley: Before the Tribunal proceed to hear the evidence, will you allow me, Sir, to complete the argument which I was addressing to you before the adjournment on the question of works which came into use in the year 1913? In my submission upon that point I had intended to read a passage from the proceedings which I think very well illustrates the point which I was endeavouring to raise.

President: Might I just say this at this stage: We alluded to the holding of the inquiry on Tuesday rather than Monday of next week. It is a matter which I have been considering, and representations have been made that it might be highly inconvenient to some of the parties interested here if the date of Tuesday next was adhered to; and, therefore, I wish to say that the Tribunal, at some inconvenience to themselves, have now come to the conclusion, in order to meet the convenience of the parties, that they will sit on Monday.

Mr. MacMillan: I am sure, Sir, that we are greatly indebted to you for your indulgence. It did so happen that in consequence of business elsewhere, a great number of the parties before you were engaged on Tuesday, and we had made arrangements for Monday. I regret exceedingly that it causes any inconvenience to the Tribunal, and I am sure we appreciate very much their kindness in adhering to the original date.

President: Very well. Now, Mr. Wrottesley.

Mr. Wrottesley: It was in developing my last point that I was making the submission that there may well be capital included in the Ministry's certificate, notwithstanding the fact that that capital, or some portion of it, was already remunerated in the 1913 receipts. The Tribunal will remember that that was the point that I was endeavouring to make, and I find that in point of fact it is fully dealt with on page 270 of the proceedings, when my learned friend, Mr. MacMillan (the Lord Advocate, as he then was), was taking the point with the Ministry's Accountant, Mr. William Valentine Wood. It is question No. 4918, on page 270, in the first column on the page, and the Lord Advocate there says: "Yes. I should not try to argue those. But I will ask one question about that matter of the capital payments in respect of items which came into use in the year 1913"; and then he said to the witness: "I understand that where work had come into use and had begun to yield revenue you did not always give full capital recognition to the item in interest, because it was being reflected to some

fore going to take it through a witness.

President: Would it be worth while your putting the witness in the box now and treating this as a sort of separate issue?

Mr. Wrottesley: It might shorten matters considerably if I knew exactly what I had to meet.

Mr. MacMillan: An adjournment at this moment might be convenient.

President: If we adjourn till 2 o'clock, would that be sufficient time?

Mr. MacMillan: I think so.

President: Then I think you could put your witness in, and if it suited Mr. Wrottesley we could treat this as a sort of distinct issue.

Mr. MacMillan: If you please, Sir; that will be convenient.

extent in earnings; is that right?—Yes. The interest ran from the date the work was brought into use in 1913." That is wrong, as a matter of fact. That statement by Mr. Wood is exactly the wrong way round, and he reverses it in a subsequent question, to which I will draw the attention of the Tribunal.

President: Is it Question 5055?

Mr. Wrottesley: Yes, Sir, that is so. Then he goes on, and I want to ask the Tribunal, if they will, to follow a question or two down. Question 4919 is: "Yes, I follow. It is a little complex to follow, but so far as you have hitherto been considering Section 58 (1) (a) I think you have concentrated your attention on the fact that it is the capital expenditure forming the basis which you are in search of?—(A) Yes. (Q) It does not say anything about the basis upon which compensatory revenue was given to the railway companies; it simply says 'final capital expenditure,' does it not?—(A) That is so. (Q) What I am after really is that there is no provision made for splitting up the capital expenditure in relation to the fact that the works upon which that capital expenditure was made were brought into use in part in 1913?—(A) No. (Q) No such provision is made?—(A) No." That exactly illustrates, if I may say so, the point which I was endeavouring to make this morning, that in so far as the Minister's certificate is concerned, he has brought the whole of such capital into his certificate, and he has not made in favour of the trader the adjustment which those who acted for the Government made in favour of the Government, by reason of the fact that any work which you choose to take, which was brought into use in 1913, say, on the 1st of April of that year, earned some revenue from the 1st of April till the end of the year. My submission is that, having regard to the words of the Act, there ought to be some adjustment made, and that the whole of that capital ought not to be brought in for the purposes of receiving 5 per cent., because if you bring in the whole of the capital revenue you add that 5 per cent. remuneration on to the remuneration which it was earning in 1913, and in that way you get double remuneration. I desired to draw attention to that passage, because it occurred to me that the matter was there put in the clearest possible way by my learned friend, Mr. MacMillan, and in my submission, the fact that that certificate does not contain any provision for splitting is a defect in the certificate, which defect I am going to ask the Tribunal to rectify. That completes my submission upon that point.

Mr. RALPH COPE recalled.

Examined by Mr. BRUCE THOMAS.

The President: Mr. Cope has already been sworn. I think he was sworn on the previous occasion.

Mr. Bruce Thomas: Yes, Sir; I think that is so. 5139. Will you tell the Court what has been the total subscription of the Great Western Railway

Company to the capital expended on the Fishguard and Rossclare undertaking on the English side, including, I think, the steamboats? Is it £1,515,494?—I think it is £1,525,494.

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Mr. RAULPH COPE.

[Continued.]

5140. If you will take your Account No. 4 (a), you will see it?—Yes, that is right.

5141. The items are given there; first of all, £794,500?—Yes, I have it.

5142. Have you got before you the Great Western Company's Accounts for 1924?—Yes.

5143. Will you look at Account No. 4 (a)? There are three items there?—Yes, that is right.

5144. Will you just tell us what those three items are?—£794,500; £220,994 and £500,000. The security which we held for the first sum is $3\frac{1}{2}$ per cent. Guaranteed Debenture Stock. The next item, £220,994, is represented by new $3\frac{1}{2}$ per cent. Preference Stock, 1914; and the third sum is represented by $3\frac{1}{2}$ per cent. Guaranteed Ordinary Shares.

5145. Making a total of £1,515,494?—Yes, that is right.

5146. And all that is in respect of works on the English side, and on steamboats, is it not?—Yes.

5147. The sum with which we are concerned, namely, £355,306, is part of that total of £1,515,494, which you have just referred to, is it not?—Yes.

5148. And in respect of the whole of that subscription, you hold stock of the Fishguard Company as described in Account No. 4 (a)?—That is so.

5149. My learned friend Mr. MacMillan told the Court this morning the arrangements between the Great Western Railway Company and the Rosslare Company. In respect of the stock that the Great Western Railway Company holds of the Rosslare Company, is the interest upon it brought into your No. 8 Account, which is called "Revenue, receipts and expenditure of the whole undertaking"?—Yes.

5150. Will you just refer to that?—In the year 1924, do you mean?

5151. I have got the accounts for the year 1924 before me, yes.—You will find that under the heading of "Interest and dividends from investments in other companies," there is the item of "Fishguard and Rosslare Railways and Harbours Company. £49,174 17s. 11d."

5152. Then I think in No. 9 Account, "Appropriation of net revenue," the interest is taken out again, is it not?—Yes, but not the same figure; it is increased by the Secretarial expenses. You will find it under the heading: "Rents of leased and worked lines and guaranteed interest," and the item is "Fishguard and Rosslare Railways and Harbours, £49,301 14s. 5d."

5153. And in that figure there is included the figure which is referred to in Account No. 8?—Yes.

5154. The difference being made up as you have just stated?—Yes.

5155. The sum upon which you claim the 5 per cent. was found by the Great Western Railway Company?—Yes.

5156. And it was expenditure upon which the Government allowed interest during the period of Government control?—Yes.

5157. Are the works upon which that money was expended revenue-producing works, which fall into the revenue of the Great Western Railway Company?—Yes.

5158. When, at a later stage of this account, you have to bring into account the revenue from other sources, will the interest upon this stock be brought in?—Yes.

President: Is it Debenture Stock?—The Witness has not said so.

Witness: It is all the Stocks.

Mr. MacMillan: It is the ordinary stock.

Mr. Bruce Thomas: No, I am referring to the Rosslare Stock, now.

Mr. Locket: It is some Debentures, some Preference Stock, and some Ordinary Stock?

Mr. Bruce Thomas: It is the three classes of stock which are shown in account No. 4 (a).

Witness: Yes, that is so; it is the whole of the four classes.

5159. *Mr. Locket:* It is all $3\frac{1}{2}$ per cent., is it?—Yes.

5160. *Mr. Bruce Thomas:* There are three classes of stock, and at a later stage in the account the interest on all those three classes of stock (that is to say, the interest on Debenture Stock and Preference Stock and the Ordinary Shares) will be brought into account as other sources of revenue?—Yes.

5161. And to that extent it will be in relief of the charges which the traders will have to pay?—Yes, besides the earning power which is already there.

5162. The total profits from the undertaking on the English side, including the steamships, will also come in as a source of revenue?—Yes, in the ordinary account, in the ancillary businesses, probably. Partly in the railway, and partly in the ancillary businesses.

5163. But whether it comes in under one heading, or whether it comes in under the other, it will go to reduce the amount which will have to be provided by the charges which are fixed by the Tribunal?—Yes.

5164. That, and the interest on the stocks?—Yes.

5165. Now, what will be the effect if no allowance is given to the company for this money under Section 58 (1) (a)?—It will never be remunerated, and the trader will get the benefit of the earning power of that money in reduction of his rates.

5166. *President:* Will it be remunerated to the extent of $3\frac{1}{2}$ per cent. in any event?—No—well, I do not know—no, if it is right that it is properly included under 58 (1) (a), then we get 5 per cent. on it.

5167. Say, for the sake of argument, that we do not do anything?—No, it will not be remunerated.

5168. Will you not get your $3\frac{1}{2}$ per cent. on the investments in the Fishguard and Rosslare Railway?—No.

5169. You will not?—No.

5170. *Mr. Bruce Thomas:* Just to carry that a step further, I want you to give the reason for that. At a later stage, you will have to bring in all your other sources of revenue?—Yes.

5171. And the interest that you obtain upon those two classes of stock and upon all the shares, will come in as another source of revenue?—Yes.

5172. *President:* They will get the remuneration, but it will come under another head?—It is cancelled.

Mr. Bruce Thomas: It will go in relief of the charges which have been raised. It will go, so to speak, in relief of the trader.

President: I only want to get the facts.

5173. *Mr. Bruce Thomas:* If you please, Sir. (To the Witness): That is so, is it not?—Yes, that is so.

5174. And, therefore, if no allowance is made under Section 58 (1) (a) will the Company get any allowance at all in respect of that expenditure?—No.

5175. *Mr. Jepson:* Let us deal for the moment with the capital expenditure on the English side by the Great Western Company before this amount of £355,000 came into view. How does that stand? Is this the position, that the £1,200,000, or a little over £1,000,000, previous capital expenditure is in the Great Western capital expenditure account, and the revenue for 1913 will include the revenue on that £1,000,000, which was previously expended?—That is so, and that is the remuneration for that capital.

5176. That is the remuneration?—Yes.

5177. Then is the difference between that and this £355,000 this, that the £355,000 may not be fully represented in 1913? I am dealing now with the point which Mr. Wrottesley has made or suggested, namely, that the works or part of the works came into operation early in 1913, and that therefore the 1913 revenue must cover some of the remuneration of the capital of that £355,000. Leaving that out for a moment, if that was not the case, the £355,000 from your point of view, does not get remunerated at all. Is that so?—Yes, that is so.

5178. The receipts that come from that to-day go into the general revenue account of the Great Western Railway Company?—Yes.

5179. And the expenditure is in the expenditure of the Great Western Company?—Yes.

5180. There is nowhere shown, is there, the actual result of the working of the Fishguard line on the

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Mr. RALPH COPE.

[Continued.]

English side (that is to say, the Fishguard line and the steamboat), which is a Great Western obligation? It is not shown separately, is it?—No, there is no account which shows the revenue of the undertaking. It would be useless, and very costly to get out, and in any case, the Great Western Company guarantee the dividends and the interest upon the Stock which they hold.

5181. Have you any idea as to whether the 3½ per cent. that they now draw as their interest on their investments on the total amount is covered by the net earnings of the Fishguard undertaking on the English side plus the net earnings of the steamers?—No, there is nothing to show at all as to whether that money is earned or not, but whatever earnings are obtained by the Fishguard Company, they are in the Great Western account. The credits which were put into "other sources of revenue" for the interest which is technically received from the Fishguard Company are cancelled out by the payment in the No. 9 account, so that you can wipe those two out altogether, the credit and the debit. That leaves in the account the earnings of the Fishguard Company in respect of which we want remuneration on the capital. We ask for that.

5182. That £49,801, which is brought in in the "Proposed Appropriation of Net Income" in the year 1924, is a short cut, really; the Great Western Railway Company know the amount that they have guaranteed, and they put that into the fund, and then they draw the bulk of it out again in respect of their interest on their shares?—Yes, that is so. The difference between the two is the small amount of secretarial expenses which the Great Western Company has to meet. It is practically Great Western, and we pay it out, or rather, we make a book entry crediting the Fishguard Company with the amount that we have to get, and then they simply credit us with it back again.

5183. There is nothing to show what relationship that £49,801 which is paid out in that way bears to the net earnings of the undertaking?—No, there is nothing. We are made absolutely responsible for this side, and we have to give a guarantee for the dividends and interest on the stocks that we hold, and there is no point in getting out all the revenue, which would be an exceedingly costly matter; and therefore we simply pay to the Fishguard Company, in effect, the amount that we are responsible for, and they hand it back to us with the other hand, so that the one cancels the other. That leaves the net sum in the Railway Account of Ancillary Businesses, of the earning power of the Fishguard Company, which will go to the trader if we do not get the remuneration on this capital.

5184. Mr. Locket: They are merely book entries?—That is so.

5185. In order that we may get it quite clearly into our heads, will you tell me this: Turning to Account No. 4 (a), what distinction do you draw between the investments in the Fishguard and Rosslare Railways and Harbours, and the investment in the London and North Eastern Railway, for example? I think this will clear it up; I think we shall see it, but I want your explanation of it?—We lent that money to the London and North Eastern Company for the construction of a line; they pay us 3½ per cent. on that stock, and it comes in as another source of revenue; but there is nothing in the Railway Account in respect of that investment, or in respect of the Fishguard Company.

5186. I was just going to draw your attention to that. In Account No. 8 there is an item

"London and North Eastern Railway Company, £9,812 11s. 3d."?—Yes.

5187. There is no corresponding amount on the other side in Account No. 9, in the way that there is in the case of the Fishguard and Rosslare Railways?—That is so. That is the interest that the North Eastern Company give us on the money that we lent them.

5188. In the one case you have invested money in a concern which brings in its own income, and you get the income expressed in the account, and in the other case you have to find the money to pay the income, and then you receive it back again?—Yes, and the earnings of that capital are in the Railway Account. That is the difference between that and the North Eastern Company.

5189. I think I understand, but I want to get it clearly from you?—Yes.

5190. Mr. MacMillan: You might, perhaps, correct one thing, Mr. Cope; the line was not the North Eastern, but it was the Great Central?—Yes, that is right.

5191. And it was Great Central stock which you got?—Yes, and the North Eastern Company are now the successors of the Great Central in that liability. It was in respect of the Banbury and Woodford Branch.

5192. Mr. Locket: The amount of £49,000 odd, which is paid to the Fishguard and Rosslare Railways and Harbours comes out of the Great Western Railway Company's general income, does it not?—Yes.

5193. It is not derived from traffic which arises on the Fishguard and Rosslare Railway system?—In effect, no, because we do not get out the accounts of the Fishguard Company.

5194. There are no separate accounts?—That is right.

5195. President: The fact that you do not make any separate account would not determine whether it came out of the Fishguard and Rosslare Company?—No, I agree that it would not.

5196. Then we do not know whether it does or not?—In effect it is a book entry. We credit the Fishguard Company with the amount that we ought to receive on these stocks, and we bring that sum to the credit of "other sources of revenue," so that the one cancels the other. It would be practically the same thing if those two items were not there, except for the secretarial expenses.

5197. Mr. Locket: Your 1913 revenue included the return on all money expended on the Fishguard Railway prior to this £355,000?—Yes.

5198. Mr. Bruce Thomas: There is just one question that I forgot to ask you, Mr. Cope. I do not know whether you can tell us now, when the works represented by this £355,000 were brought into use?—It was subsequent to 1913. I think there was a slight mistake made this morning. I have never said that some of the works for which that expenditure was incurred were brought into use in 1913, and I do not think you can refer me to any answer I have given in which I said that.

5199. However, you have made an inquiry as to when the works were brought into use, and they were all brought in subsequently to 1913?—That is so.

5200. Mr. Jepson: I suppose that if they had been brought into use in 1913 the Ministry of Transport would have adjusted the amount of the interest paid to the Great Western Railway Company for the year 1913?—Yes, it is a question of fact entirely.

5201. You did not have any such adjustments in regard to this Fishguard expenditure, did you?—I believe not. That is my information.

Cross-examined by Mr. WROTTESELEY.

5202. Do you mind taking the Great Western Railway Company's accounts for 1924?—Yes, I have them.

5203. In account No. 4 (a), to which allusion has been made, I see the words, "3½ per cent. guaranteed debenture stock" in the last column?—Yes.

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Mr. RALPH COPE.

[Continued.]

5206. I think it means that it is guaranteed by some other company and not by the Fishguard and Rosslare Company. Is it not the Great Southern Company of Ireland?—It is a joint guarantee of the Great Western Company and the Great Southern Company.

5207. A joint guarantee of the Great Western Company and the Great Southern Company of Ireland?—I think so, but the Great Western Company's guarantee is in respect of the capital expenditure on this side, and the guarantee of the Great Southern Company of Ireland is in respect of the other side. The Great Southern Company of Ireland did issue some stock, and there is a joint guarantee of the two companies in respect of that stock.

5208. *Mr. Jepson*: Was not that arrangement contained in one of the agreements to which Mr. MacMillan referred, which was a statutory agreement?—Yes; it is a statutory agreement, yes.

5209. *Mr. Wrottesley*: What you tell us is that the revenue from this undertaking, in so far as it consists of receipts on this side of the Irish Channel.—And in the steamboat services.

5210. Yes, in so far as it consists of receipts on this side of the Irish Channel and from the steamboat services, goes into the other sources of revenue of the Great Western Company?—It goes into the ancillary businesses, or, rather, I should have that it goes partly in the railway and partly in ancillary businesses.

5211. Dealing with the position of the Great Western Company *vis-a-vis* the Fishguard and Rosslare Company, the only interest which the Fishguard and Rosslare Company are entitled to exact is 3½ per cent?—The Fishguard and Rosslare Company are entitled to exact?

5212. Yes. It is their stock, and you guarantee it?—Yes.

5213. First of all, all that they can pay is 3½ per cent?—Yes.

5214. And all that they can exact from you is that you should guarantee that 3½ per cent?—Yes, it is a guarantee of 3½ per cent.

5215. They cannot pay more than that to their shareholders?—No.

5216. With regard to that 3½ per cent. which they have got to pay to those shareholders, and which, as you have told me you have to guarantee, do you bring it in as an expense, and are you going to bring it in, in future years, as an expense necessary to earn your revenue?—The guarantee? I do not follow.

5217. With regard to the 3½ per cent. which the Company has to pay its shareholders and which you told me that you guarantee, are you going to bring that in as an expense?—As an expense in the Railway Account, do you mean?

5218. I mean as an expense of the Great Western Railway Company, incurred in order to enable them to earn their revenue?—It will be charged in Account No. 9, and credited in Account No. 5, so that the one will cancel the other.

5219. Just let us go by stages, if you do not mind?—Yes.

5220. Are you going to charge that as an expense?—Yes; in Account No. 9 it will be charged as a payment out of the net revenue.

5221. At the rate of 3½ per cent?—Yes, plus secretarial expenses.

5222. Assuming that this money, instead of being invested in the Fishguard and Rosslare Company, was money invested in War Loan—do you follow me?—Yes.

5223. Is there any distinction in principle between the two?—Yes, distinctly so, because the earning power of those works is in the railway ancillary businesses revenue, whereas, if it was invested in War Loan, there would be no such thing.

5224. It would be another source of revenue?—Yes, but you would not have two credits, namely,

the interest on the money and the earning power of the works, would you?

5225. If you ask me questions you will very soon get me out of my depth, I am sure; and so, perhaps, you will answer my questions. In either event the earnings would appear in the other sources of revenue?—No; you get two in one case, and one in the other case. In the case of the War Loan you would get the interest in No. 8 Account, and in the case of the Fishguard and Rosslare Company you would get the interest in No. 8 Account and you would also get the earnings; you would get the two credits there.

5226. In the case of War Loan you would have to bring in, amongst the revenue from other sources, the interest which you received upon that money so invested in War Loan?—Yes, certainly.

5227. I suggest to you that nothing different from that happens here, inasmuch as all that you have to do is to bring in the remuneration which you earn, and fix the form of the receipts?—Yes, except that you have got the earnings.

5228. The receipts, after the 3½ per cent. on the capital has been paid. It is the surplus, is it not?—No.

5229. Do you say: No?—Yes, I did say: No.

5230. The receipts which are, at any rate in theory, received by the Fishguard and Rosslare Company, and the receipts upon which that 3½ per cent. is a first charge, are partly receipts from steamships and partly receipts from railway rates?—Yes.

5231. In so far as they are receipts from steamships, or earnings from steamships—whether freights or passenger fares or what—they are not subject to this Tribunal?—No; they are an ancillary business.

5232. In so far as they are railway rates or fares, they are the subject, are they not, of Section 33 of the Railways Act of 1921? It is the case of a railway company other than an amalgamated company, is it not?—Yes; if they are not an amalgamated company, that would be so.

5233. You know as much about it as I do, and possibly more. They are not an amalgamated company, are they?—They are not scheduled.

5234. So that when their rates and fares have to be fixed, they will have to be fixed as a result of some inquiry or proceeding under Section 33 of the Railways Act of 1921?—This is rather out of my province. I am dealing with the figures.

5235. I do not want to embarrass you, but it is obvious, is it not? It is an amalgamated company, and, therefore, the Rates Tribunal would apply to it the schedule of charges that they thought most appropriate, modifying it if they pleased?

Mr. MacMillan: The difficulty is that it is partly in Ireland, and I do not think that the Tribunal would have jurisdiction to deal with that.

Mr. Wrottesley: That may be, but I suggest that that is not a reason for treating it as if it were not an amalgamated company.

Mr. MacMillan: It may be a reason for not dealing with it under Section 33 of the Railways Act.

Mr. Wrottesley: At some time or another rates have to be fixed, and you know of no other way of dealing with it, do you?—I think there are through bookings between the Fishguard and Rosslare Company, the Irish Company and the Great Western Company, and I do not know that there will ever be any reason to fix fares on the railway. They must be through rates.

5236. There are very obvious difficulties about this or any other Tribunal fixing through fares between here and a town in Ireland, are there not?—Possibly; but I think you are taking me into legal questions, rather than questions of fact.

5237. I am dealing with you as a witness who has been called upon this matter, and possibly the only witness that I shall have an opportunity of cross-examining; and I am giving you an opportunity of telling me if I am wrong in any of my assumptions. The position is that we are here

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dealing with a revenue of the Great Western Railway Company?—Yes.

5238. A revenue arrived at either by means of railway rates and charges or other sources of revenue?—It was from ancillary businesses.

5239. Do you suggest that this is an ancillary business?—I do. Partly in steamboats, and partly in railway.

5240. And clearly, therefore, it is not the rates that we are trying to fix at the moment. It is not the rates which depend on the standard revenue?—It may be it is not. Neither are the docks. May I say that if capital had been expended on the docks during the period of control, the Minister of Transport would have allowed 5 per cent. on that, and it would have been properly included in our claim.

5241. I understand that these stocks, if you take Preference, Ordinary or Debenture Stocks, have all been issued since the last Inquiry?—Not the whole of the £355,000, but some part of it; that part which had not been issued.

5242. £135,000 had been issued before, and there was £200,000 outstanding?—£220,000, I think it was.

5243. That £220,000 has now been issued?—Yes; last autumn.

5244. Which form has it taken?—Preference Stock. It is new 3½ per cent. Preference stock, and you will see it in Account No. 4 (a) in the accounts for the year 1924. The amount is £220,994.

5245. The phrase that you used, at page 120 of the former proceedings, was: "There was more than £100,000 of it found before 1913; there was about £240,000 of it." Did you mean that it had not only been found, but that shares had been issued in respect of it?—Do you mind telling me which question it was?

5246. It is page 120, question No. 2032 and onwards. It is clear that what you suggested was that the money was spent?—What I meant by that answer was that the Great Western Company had advanced money before 1913.

5247. Exactly.—I do not think I then had in mind that they had stock for it, but I think they had.

5248. You think that they had, now, do you?—Yes.

5249. Mr. Locket: At any rate, they have stock now?—Yes, they have stock now.

5250. Mr. Wrottesley: Was the interest on that?—I suppose it was 3½ per cent.—charged in the 1913 revenue?—If stock was issued for it, yes.

5251. At the rate of 3½ per cent?—Yes. You will see by the 1913 accounts that we held £766,500 of 3½ per cent. guaranteed debenture stock, and £500,000 of £10 guaranteed ordinary shares.

5252. Was it in 1920 or 1921, or some time like that, that the railway applied for increased charging powers in respect of the Fishguard and Rosslare Harbour?—I really do not know.

5253. And were you consulted when they applied for that increase?—No, that would not be my business.

5254. Would they not come to you to get out the accounts of the harbour undertaking?—I think not.

5255. It is a fact, is it not, that they did apply, putting that part of their undertaking forward as a separate undertaking?—I really do not know.

5256. And they obtained an order, did they not?—I cannot tell you; I do not know.

5257. Was the figure which you gave me just now, for 3½ per cent. debenture stock issued in 1913, the figure of £760,000?—£766,500.

5258. Where is the figure then? Is that debenture stock?—Yes.

5259. The figure is £794,500 in the 1924 accounts?—Yes.

5260. Has there been some more since then?—Some time since 1913; I think it was in 1914, but I am not sure that we had a little more of the debenture stock.

5261. What I am putting to you is that even now in 1924 the figure has only gone up to £794,500?—Well, what does that matter?

5262. There has not been £130,000 or such a figure issued, but a much smaller sum?—You might have had some of it issued before 1913.

5263. We are only trying to get the facts if you have them there. I understand that you are familiar with this transaction; what did take place?—Previous to 1913 as we advanced the money so we got the stock. If we did advance money pre-1913 we should have got the stock almost immediately. Probably in 1914 we got the stock immediately; then when this work was carried out we did not take the stock until this last year, 1924. We simply advanced the money and only took the stock in 1924, but there is no point in that, I think.

5264. The expenditure to which you are alluding is recent expenditure. Has that been dealt with not merely by the issue of guaranteed debenture stock, but also by the issue of preference stock and guaranteed ordinary shares?—Where do you get the guaranteed ordinary shares?

5265. Still on your 1924 accounts?—The whole of the expenditure you are referring to now—not the £355,000?

5266. Yes, the whole of it, first of all?—It has been found in the three classes of stock.

5267. Now with regard to the £355,000, where is that? What are the equivalent investments in existence—securities representing that sum of money?—I think the major part of it is in the new 3½ per cent. preference stock—that is £220,000—and probably the £130,000 is in debenture stock.

5268. But there was already charged in the 1913 accounts a large proportion of that, and the interest on that appeared as an expense in that year?—Yes, and the credits as well.

5269. Your railway company entered into an agreement with the Fishguard and Rosslare Company and with the Great Southern of Ireland Company on the 14th, February, 1908, an agreement that was scheduled to an Act of Parliament of that year?—To the Act of 1903, yes.

5270. By Clause 3 of that agreement it was provided that the Fishguard Company, if required by your Company, should issue to you, as soon as the Fishguard Company could, paid-up guaranteed ordinary shares; have you got that agreement before you?—No, I have not got it before me, but I think you are probably right.

5271. It is not a question of whether you think I am probably right; I want to ask you a question upon it?—I have not it before me, and I cannot say.

5272. I want you to look particularly at Clause 3 of that agreement. (*Document handed to Witness.*) Tell me what "guaranteed ordinary shares" means in that context; by whom were they guaranteed?—The Great Western.

5273. By the Great Western again, was it?—Yes.

5274. And they were to be in respect of the whole or of such portion as the Great Western Company may require of the sums already advanced by the Great Western Company?—Yes.

5275. In respect of the Fishguard undertaking on the English side?—Yes.

5276. And also such further sums as the Great Western might be called upon to advance in respect of the sum on the English side, including steamboat service. Then there appear the words "Up to the time when the Fishguard Company are in a position to issue their capital to the public"?—Well, there was always an embargo upon—

5277. One moment; have you followed those words?—Yes.

5278. Of course, that is in an Act of Parliament. That indicates, does it not, that at some time the Fishguard Company were to be in a position to issue their capital to the public?—Well, it was never intended to do so with the Great Western; that was rather cover for the Great Southern. They did issue stock to the public under a joint guarantee.

5279. Can you tell me how Clause 3, which mentions the Great Western Railway Company and no other, can be cover for the Great Southern of Ireland Company?—Well, I do not know; I am not a lawyer.

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[Continued.]

5280. I do not think it requires a lawyer to answer that question. Just look. Surely that to you with your experience of accounting does indicate that eventually there is to be an issue of capital to the public?—Well, it is not contemplated, and never was.

5281. You say it never was contemplated?—I do not think so.

5282. Can you tell me how such a clause ever got in?—I do not know, I am sure, but it never has been contemplated that the Great Western Company should do other than hold the stock and guarantee it.

5283. That is your explanation of that clause, but it is no explanation, in fact.—No, perhaps not. It was not in this in 1903, and I did not know that was there, as a matter of fact; but the lawyers will probably explain it.

5284. We only find this out by industry, you know. You have no explanation to give me with regard to that?—No, I cannot give it to you.

5285. If it were the fact that there ever were an issue to the public in respect of the whole of this Company the result would be that your Company would get back their capital?—Yes.

5286. And that would be free capital which you would be at liberty to distribute to your shareholders?—No. Would it operate in that way?

Mr. MacMillan: The fact of the matter is that we hold the entire stock and we cannot part with any of it, and therefore the type of transaction that my learned friend is referring to cannot occur.

Mr. Wrottesley: That is the whole difficulty. When you drew attention to the fact, which I was very much impressed by, that you could not alienate the stock, I wanted to see how that could be married up with the clause I have just read, which clearly indicates the intention on the part of Parliament, or the will on the part of Parliament, that these things I am putting should be done. I want to see where it would lead if it were done.

Mr. MacMillan: I think you put an interpretation upon it with which I do not personally agree.

President: Is there any express prohibition in any Act against your parting with it?

Mr. Wrottesley: They may not alienate.

5287. Is there any provision that they should not cancel this stock?—I do not think they can cancel it.

5288. If you got paid pound for pound as a result of an issue to the public in accordance with the provisions of that agreement scheduled to the Act of Parliament—

President: Who is the person in your mind at the moment paying for it?

Mr. Wrottesley: The Fishguard and Rosslare Company.

5289. Anyhow, so far as debenture stock is concerned, what is the objection to paying that off by means of an issue to the public in accordance with that arrangement, and what would happen under

Section 58 (1) (b) in that event?—The Great Western Company would have to give credit for that capital in Section 58 (1) (b), and they would lose the money in that way.

5290. Not if it were done in the year 1926?—Oh, yes, it would.

5291. Or, to be on the safe side, in 1927?—I think you will find it would be.

5292. That is your answer—you think it would?—I think if such a thing could happen the Great Western Company would lose the money under Section 58 (1) (b), because it would have to give credit in the account for the credit in capital account and there would be no gain.

5293. If you are wrong there you see the difficulty the traders are in, that they might have to pay 5 per cent. in respect of this capital to-day, whereas in fact it would be found by an appeal to the public later that you would be in a position to distribute this capital as dividend; you see the difficulty?—I do not follow you at all. They could not distribute this capital in dividend; it is impossible.

5294. Do you now see why we are a little anxious to see what the position also of this undertaking is in the matter of rates, fares and charges, and things like steamboat services not within the province of this Tribunal at all?—Nor are the docks, nor any other ancillary business.

Mr. Wrottesley: That may or may not be true, subject to qualifications, possibly.

5295. Mr. Locket: You were satisfied, at any rate, when these agreements were entered into to invest the money at 3½ per cent.?—Yes.

5296. You are now asking to be allowed to receive 5 per cent. upon it?

President: In addition.

5297. Mr. Locket: No, in substitution, I think, if Mr. Cope's account of it is correct. (To the Witness): You mean in substitution?—Whatever capital we raise under Section 58 (1) (a) would not affect the allowance that was given for that capital by the Act.

5298. But it was raised in respect of an investment which was only to bring you in 3½ per cent.?—That may be so, but whenever the Government allowed us during control interest upon capital expenditure there was no relation to the price at which you issued the capital for it. It was an allowance on capital expenditure, not upon capital; it was an all-round allowance which was quite a different affair.

5299. President: At that time you had not taken up any stock?—I think so, yes; I think you will find that we had in 1918.

5300. In respect of the £355,000?—Yes, about £130,000 one way or the other. We have only had about £220,000 this last time, so that leaves roughly £135,000 that we had previously. £220,000 was the figure that we had last year.

CROSS-EXAMINED BY MR. WORRALL.

5301. I should like to ask Mr. Cope one or two questions. With regard to this £355,000 odd, do you agree that this should be cancelled out altogether from the accounts by the contra-entries?—But it is cancelled out by the credit and the debit.

5302. But in the way it stands in the accounts at the moment we have to bear the burden of that £355,000, do not we?—You have the revenue produced from it.

5303. What would be the revenue; would it approximate to the contra-item?—I do not know; the revenue is not ascertained.

5304. As a layman it seems to me that there is a difference at any rate of 3½ per cent. and 5 per cent. in the way this item is arranged?—If it is properly included under 58 (1) (a) we then get 5 per cent. surely?

5305. That is the point, is it not—whether it should be properly included. Do you say that it should be properly included under this 58 (1) (a)?—Yes, certainly I do.

5306. Quite apart from your other statement that it is a cancelling out entry?—I say that the payment of the Great Western Company to the Fishguard Company to give them the interest cancel one another.

5307. But cancelling out really wipes it out altogether?—It wipes out those two entries.

5308. Are not there a quantity of other entries which might be taken to be cancelling out entries apart from this one item?—What do you mean? I do not follow.

5309. Is it a rule that these kind of cancelling out entries appear in the accounts?—If you cancel, of course the entries would appear.

5310. And therefore this is really a sample of a quantity of other entries?—You say so.

5311. It might tot up to millions with this system of cancelling out?—Well, I do not know of them.

5312. You could give other instances of cancelling out entries?—I do not know that I could—I dare say. You cancel out if you charge the revenue on one thing and credit it with another.

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[Continued.]

5313. Therefore it might be against the interests of the public that these cancelling out entries should appear because of the interest?—If they cancel out it does not affect them, does it? That is my idea of cancelling out.

5314. Then if it does not affect the thing, why stand out for this particular entry? Why not say at once: "We do not pass it"?—But we are claiming that because you are getting the benefit of the earning power of these works in the railway and ancillary docks accounts.

5315. But you want to get 5 per cent?—Certainly.

5316. If it is a cancelling out entry why claim 5 per cent?—Because the capital has been expended and the earning power of those works is in the revenue account.

5317. It means that it is a purely hypothetical entry and nothing else?—The two of them are.

5318. And so as a hypothetical entry it is improperly charged 5 per cent?—I do not mean to say that at all.

Mr. Worrall: I know, but that is my point.

President: Thank you; you have made it very nicely. Are you calling any other evidence, Mr. MacMillan?

Mr. MacMillan: No, because I can give my friend the answer to the question which he raised; it is not necessary to call a witness on it. In the figure of capital sums on which we are charging 5 per cent. under Section 58 (1) (a) there is included capital expenditure upon works brought into use in 1913, irrespective of the time in 1913 when they were brought into use. You have the fact; that is so. I understand it has been known to the accountants behind us all the time that that is the way it is done.

The other matter my learned friend referred to was the reconciliation statement. I think he is entitled to have information to enable him to see that the compartments (a) and (b) are mutually exclusive, the one of the other, and I do think that we need not really pursue topics of this sort in your presence. I should have thought that was obviously a matter for the accountants and respective parties to see each other upon, but what we can give you is this: we can give you items which, formerly in (a), are no longer in (a), and which have to some extent, but only to some extent, been transferred to (b). With regard to the exact items which are no longer in compartment (a), which is the thing my friend wants to know, I take it, we are going to pretermite one or two items altogether, I understand, but in so far as they have been transferred from (a) to (b), we shall tell him what have been transferred and say that they are in compartment (b), and justify it if we can the next time we appear before you. I think that covers all that my learned friend spoke to.

Mr. Wrottesley: I am afraid it does not, for this reason: What the users of the railway want is some sufficient description of the matters included under (a) to ensure that no matters in (a) again appear in (b) or (c). The Act of Parliament is drawn to make (b) and (c) exclusive of matters which would otherwise be there, but as they are in (a) they are not to appear in (b) or (c). I am sorry to appear ungracious but I think that is the least we are entitled to.

Mr. MacMillan: You have already had the statement which is in the Appendix at page 167 of the proceedings, showing that (a) and (b) are compiled so as to be mutually exclusive of each other. We really cannot do much more. We will tell you the difference we have made since this was compiled by the elimination of certain items from (a) and their partial transference to (b): I think that fairly meets the position.

Mr. Wrottesley: If the railways will supply us with the material that my learned friend has referred to, we will see if that does meet our difficulties. If it does, of course, that is an end of the matter; if it does not I must, I am afraid, ask the railways for more. I do not want to ask them to give us material which we may conceivably not want, but if they will give us what they have, if it is enough, we will say so.

President: I followed Mr. MacMillan's assurance as closely as I could, and it seemed to me that it did not exactly cover all you want, but it may give you the means of ascertaining when you are in communication with his advisers what you do want. At present we do not propose to make any order in that connection, but it will rest on the basis of Mr. MacMillan's assurance, and your partial acceptance.

Mr. Wrottesley: Might I before Mr. MacMillan sits down ask him another question. In dealing with this question this morning he dealt with a number of items which the railway advisers have come across and as to which they felt it was their duty, morally, to make concessions to the traders. If my friend can see his way to it, we should like very much to have an assurance from him that those are the only items of the kind that he has discovered.

Mr. MacMillan: It is a very odd suggestion, in one way, to ask Counsel whether he has any other good points he might have made, and has not chosen to make, but I will tell my friend this, if he likes, that, so far as I am concerned, we have made a clean breast of it; that is to say, that all the points which were in his instructions and all the points which occurred to me I have put before the Tribunal. More than that, I cannot say. Somebody else might find other points; I have given the Tribunal all the assistance I could with the information I possessed.

Mr. Wrottesley: The reason I asked was, that it so happened that we had lighted on all these points, and my friend turned round to find out if I did know them before he gave them away, and I thought in those circumstances, having regard to the atmosphere, I might ask my learned friend for that assurance.

Mr. MacMillan: The only thing I would say by way of comment upon that is this: This is a very good illustration of the desirability of obeying the exhortation of the Tribunal that we should confer about these matters beforehand. We should then have known that these were all the points that were discovered, and as my friend has discovered no more and I have discovered no more, I think we may take it that there are probably no more. I do not know that that does not really conclude to-day's proceedings.

Mr. Wrottesley: I should like to make my submission on Fishguard. That only leaves this one point to be dealt with, and in order that I might deal with that with a better knowledge of the facts, my friend Mr. MacMillan put the witness in the chair. The position, therefore, is this: that in fact shares have been issued now since the last Inquiry to cover the moneys advanced by the Great Western Railway Company to the Fishguard and Rosslare Company. That is the difference in the situation between to-day and the last occasion when we were before the Tribunal. That still leaves untouched this curious feature about this case, that under the agreement between all those three parties which is scheduled to the 1903 Act, which is before you, there appears to be the clearest possible contemplation on the part of the Great Western Company and the Great Southern of Ireland to the Great Western enabling them as and when they think fit (and as my friend Mr. MacMillan reminded us this morning, they have four Directors' nominees on their own out of a total board of seven) to implement that agreement in this way: to cancel or pay off the capital which has temporarily at any rate, and only temporarily, as it would appear, been subscribed by the Great Western Railway Company to the Fishguard and Rosslare Company as and when the Fishguard and Rosslare Company see fit to go to the public to raise their money from the public.

In that event, as I submit, exactly that would happen that I suggest might happen as I suggested to Mr. Cope. This money would have been a loan; it would be treated as a loan and repaid as such. It would be free moneys coming to the Great Western Railway Company which they would be at liberty to distribute or deal with that in any way they chose, very likely by new capital expenditure in respect of which they would come before this Tribunal

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[Continued.]

and ask for remuneration under the Section in that way, or in the other way by distributing it to their shareholders as dividends they would be getting again a double remuneration. That is a distinct risk which would appear on the face of the documents which my learned friend Mr. MacMillan has dealt with. Quite apart from that, as a matter of principle, I am going to ask the Tribunal to consider whether this is a case at all of capital expenditure by a subsidiary or constituent company. The facts are that it is in the form of an investment and has been done in that form doubtless for good reasons of the Great Western Railway Company for the purpose which seemed sufficient to the Great Western Railway Company at the time. The legal liability upon the capital so created is without question confined to the payment of 3 per cent. It is, therefore, an investment which can in no event produce more than 3 per cent. regarded as such. It is perfectly true that if more money is made out of any of this particular joint undertaking it will come and swell the other sources of revenue. In that it is no different from War Loan or stock, or any other investment. For that reason alone it seems to me, and I submit to the Tribunal that it is not a proper capital expenditure upon which any allowance ought to be made. It is complicated in this case by this fact, that sooner or later the charges, in so far as they are railway rates on this side of the Channel, will have to be fixed by this Tribunal, and will have to be fixed under this Section to which I drew attention, Section 33, and possibly Section 51, but I think really Section 33 would be the governing Section. So you would then be in a position to consider all the facts which have been opened to-day with regard to the history and finance of this railway in arriving at the proper charges to be charged upon the undertaking so far as it consists of a railway. In so far as, of course, the earnings are steamboat takings, and in so far as they are dock charges, they are not the subject of this Inquiry at all. They are not charges which in any way build up the main thing which the Tribunal is endeavouring to build up, namely, the equivalent of the 1913 revenue properly adjusted. For those reasons I submit as a matter of principle there is no reason to differentiate the earnings of the Fishguard and Rosslare Company from any other investment, whether in railway or in any other undertaking. Therefore, as a matter of principle, quite apart from the fact of the 1903 Act, and that curious provision to which I have referred, there is nothing, as I submit, to prevent the railway company taking the course I suggested they might take.

Quite apart from that, I submit as a matter of principle that the Tribunal will not make any allowance upon this capital expenditure. It is a little curious that no accounts of this undertaking were told have been kept, because I have before me, and I will put in, a statutory Rule and Order of 1924, No. 218, which is the Great Western Railway Harbour, Docks and Piers Temporary Increase of Charges Order, 1924, and it deals *inter alia* with the charges of this Fishguard undertaking in so far as it consists of a dock and harbour undertaking. I observe from that it is made a condition of that Order by the Minister of Transport—I see it is signed by Mr. Hurcomb—"That the Company shall keep such accounts and shall make such returns of their receipts and expenditure and of their traffic as the Minister of Transport may from time to time require." Inasmuch as by this Order the charges and dues were raised by the amount of 60 per cent. it is to be presumed, I take it, that the Ministry of Transport had before then some material upon which to make that Order, and apparently they thought fit to impose that condition on the Great Western Company that they should continue to keep the accounts of this undertaking in so far as it consisted of a dock undertaking—

Mr. Locket: Does that Order only apply to Fishguard?

Mr. Wrottesley: No; it applies to a number of docks.

Mr. Locket: Their docks?

Mr. Wrottesley: The Great Western Railway Company's docks. It includes the Fishguard undertaking which is not in fact the Great Western Railway Company's undertaking at all.

Mr. Locket: It does not mean that they are to keep the accounts of the Fishguard and Rosslare section separately; it only means that they are to keep the accounts of the docks and harbours separately from the railway accounts.

Mr. Wrottesley: It might be so. It seems incredible that the rates at a place like Plymouth should be fixed by reference to the accounts of an undertaking like Fishguard. They are distinct in the 1923 Order which preceded the one which I have just read. There distinctions were made and modifications were made. Newport, Cardiff, Penarth, Barry, Port Talbot, Briton Ferry and Llanelly—the Tribunal will appreciate why those are grouped together and given a charge in respect of tipping coal and coke. Plymouth, on the other hand, is given special consideration with regard to certain other classes of rates and charges. They are subdivided for the purposes of their charges. Perhaps the Ministry of Transport can enlighten us upon that. It seems impossible that the Ministry of Transport were giving all-round charges on the basis of the general accounts of all their dock undertakings producing that result. I put in those two Orders.

Mr. Locket: Does it mean anything more than that they are to keep accounts in respect of docks, harbours, and wharves in accordance with No. 14 of the statutory forms?

Mr. Wrottesley: You mean No. 14 of the railway accounts?

Mr. Locket: Yes.

Mr. Wrottesley: Clearly I should have thought it was to indicate what the earnings and expenses were.

Mr. Jepson: Of the docks?

Mr. Wrottesley: Yes.

Mr. Jepson: None of those dock charges are in the revenue we are concerned about immediately.

Mr. Wrottesley: No.

Mr. Jepson: We shall have to deal later on with the net revenue from the dock undertakings.

Mr. Wrottesley: As other sources of revenue.

Mr. Jepson: Yes. What do you base on the fact of these Orders of the Minister of Transport authorising the Great Western Company to increase their dock charges at Fishguard?

Mr. Wrottesley: Only this, that when I asked Mr. Cope about their accounts he said the Great Western Railway did not keep any separate accounts. It seemed difficult to follow.

Mr. Jepson: What is in my mind is this: Supposing the Minister had asked the Great Western to keep separately the accounts so far as Fishguard Harbour was concerned, that would not give the figures with regard to which I was asking Mr. Cope when he was in the box as to whether they kept a complete statement showing the receipts and expenditure and net revenue of the Fishguard and Rosslare undertaking, or the Great Western side of it.

Mr. Wrottesley: No, it would not. There is an argument that I think does fall to be addressed to you upon these orders. They remind one that this Fishguard undertaking, consisting as it does to a very small degree of a railway and to a large degree of a dock and harbour undertaking, and possibly to as much if not a larger degree a steamboat undertaking, is all subject to its appropriate revisions, by its appropriate superintending Government Department, which I believe nowadays will tell it what it may or may not charge except possibly with regard to certain fares on its steamboats. It does seem, therefore, undesirable, I submit, and it is quite unnecessary for this Tribunal to take that capital expenditure into their consideration at all. When a company desires to justify any charges made in respect of their dock undertaking, this question of

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what capital they have had to expend and how it is to be remunerated will be considered by that Tribunal and its charges will be fixed with that end in view. It is really duplicating the supervision and possibly leading to some confusion in the way of fixing charges that a railway company should be allowed to bring in for this purpose, to a purely railway inquiry like this, because they have other sources of revenue, charges or the remuneration of capital which has contributed towards earning moneys out of things like dock undertakings or any of those ancillary services. It appears to me that we are likely to get into a duplication of supervision and lead to some confusion. If it is regarded purely as an investment, it stands upon its own basis, certainly so far as it consists of a dock undertaking, and it will doubtless receive quite proper consideration from the appropriate authority when it applies to increase or lower the charges in respect of those docks. It is undoubtedly the fact that when that Tribunal has to consider that question one of the elements to be considered will be the capital expended on the undertaking.

Mr. Jepson: One difficulty that is still in my mind, and you have not removed it, is this: leaving out the £355,000 there is over £1,000,000 of expenditure by the Great Western Company prior to 1913. That is treated and has been treated as Great Western capital; it is shown in their capital accounts. The revenue from that undertaking, so far as the English side is concerned, and the steamers, has been brought into the 1913 revenue, so far as the expenditure of that £1,000,000 is concerned, and the money that is derived from the investment at 3½ per cent. from the Fishguard Company brought into contra account. Equally, they pay out the amount that is required to repay themselves in respect of that 3½ per cent. That is quite clear as regards the £1,000,000 prior to 1913. Now they come and say, and the Government have passed it: "There is £355,000 that we have spent since 1913; put us in the same position with regard to that." Your argument is to keep it out for some reason, because it was not spent by the Great Western themselves on their own undertaking. You are seeking to differentiate that £355,000 from the £1,000,000 which has already been spent before, and which is being dealt with just in the same way as the railway companies propose it should be dealt with now.

Mr. Wrottesley: Yes, because I say they have chosen to put the matter into the form in which they have put it. They have chosen to set up this separate entity and to erect, so to speak, a barrier between themselves and any further liability than 3½ per cent. If they have chosen to do that, I say they should be bound by it. If you choose to erect a company to stand between you and your true customer, you must stand by it afterwards. You say: "It suits my book to do so, and I shall do it," and you must be held to it afterwards.

Mr. Jepson: Are they not in exactly the same position with regard to the £355,000 as they have been hitherto with regard to the £1,200,000 that they have already spent or which they had spent prior to 1913?

Mr. Wrottesley: I think possibly they are, but I do not think that argument is sufficient because there is a great deal of capital. Up to 1913 the matter was looked at from an entirely different angle. Parliament then took the aggregate revenue for all the undertakings and said: "However you earned it, you shall have that still." It might very well be that this was a concern which at that date though not a railway undertaking at all might have made a very big profit up to 1913, but in 1914 it became a complete waste of money and did not earn 6d. The traders are told that they have nothing to lose notwithstanding that that is dealt with out of railway rates to-day.

If I am asking this Tribunal not to add to these risks, but to confine themselves as closely as possible to truly railway items, I say at once, if this expenditure was going to be justified either under 58 (1) (b)

or (c), the position of the trader quite clearly would be that it is a costly expenditure and has not provided any adequate remuneration, and we should ask to exclude that altogether.

Mr. Jepson: Did you intend to suggest when you said later on that the Tribunal might have to be considering the charges which should be applied to the Fishguard undertaking, and then we should have to go through all these formalities, that when we came to fix those charges we should take into consideration this capital expenditure by the Great Western Company and so arrange their charges that there should be as good or a better return on the £355,000?

Mr. Wrottesley: I think very likely, but I would not like to commit myself to that, in so far as it is a railway undertaking on this side.

Mr. Jepson: Is it your suggestion as to the £355,000, limiting it to that for the moment, found by the Great Western Company for the Fishguard, that when we came to consider the Fishguard schedules we should be entitled to take that £355,000 found by the Great Western Company and find the Great Western Company some remuneration upon it from the Fishguard Company?

Mr. Wrottesley: I would not say you have to find the Great Western Company some remuneration upon it. You would not have to consider, in my submission, the Great Western Railway Company. It is a matter for you, and we shall have to discuss it when the matter arises, as it doubtless will.

Mr. Jepson: I did not know whether that was included in your suggestion.

Mr. Wrottesley: I think it might very well be so. As I say, you have to apply the schedule which you find most applicable in all the circumstances of the case, and I know of no element which you might not take into your consideration in order to arrive at that end. If you thought this was one of them in your good judgment, it would be a matter for you to decide when the matter arose, but you have here a separate entity for the purpose of charges provided there is, as I understand there is, a portion of railway on the English side, otherwise in so far as it is a dock undertaking it would fall for decision by other authorities.

Mr. MacMillan: Perhaps I might in a word give a résumé of the position which has resulted from these proceedings. We have the Minister's tables, M.T. 1, M.T. 2, M.T. 3, and M.T. 4, under which he has informed us of the sums upon which interest was paid during the war period by way of compensation to the railway companies owing to the Government taking over control. On those tables, which we have adopted in our amended books before you, certain matters have to-day been discussed; and I think we are left in this position, that, as regards the North Bridge Railway Company, to which the Minister drew attention, there is now nothing between us at all. Mr. Wrottesley desires that that figure should come in out of the North British figure in M.T. 1, and we do not resist that. So that that matter may be taken as out of the way.

The next matter to which I referred was this question of the rent charges which in capitalised form have been included in the Minister's figures. There, again, we find ourselves in no way at variance, because we are willing that that ingredient in the Minister's figures should be eliminated. Mr. Wrottesley, on behalf of the Traders, thinks that is the best course, and I do not resist that at all.

I alluded also to the question of the treatment of the J Joint Lines. We have had no observations from my friend on this point, so we may take it that that is the agreed method of treatment as we have treated them here.

That leaves only the Rosslare and Fishguard Company. On that I have very little to say in supplement of what I said before. I do notice that both the Statutory Orders are temporary Orders, and both of them are now dead; but I derive encouragement from the terms of them because although dead they

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still speak, in this form, that both of them describe the Fishguard as a harbour or a pier undertaking of the Great Western Railway Company. So that even the Minister of Transport has slipped into accuracy in this matter—or into inaccuracy, according to how you look at it—because he has dubbed the Fishguard Harbour undertaking as a harbour undertaking of the Great Western Railway Company. In law it is not so; but so much as it is so the Minister of Transport describes it in an Order, and he describes it in both of these Orders.

I am more concerned to say something about another point, because I think these Orders are quite immaterial to the question before you. My friend made a curious statement. He said, no doubt it is true that the Great Western Railway Company cannot part with any of those shares, or any of that stock, which it holds in the Fishguard Company, and it cannot because in reiterated provisions of a series of Acts of Parliament it is expressed in this form: "The Great Western Railway Company shall not sell, transfer, or dispose of any shares or stocks so held by them." I read that from Section 88 of the Act of 1893. It is repeated in Section 71 of the Act of 1899; and it is once more repeated in Section 37 of the Act of 1914. But then, he says—attributing to us almost Michaevelian ingenuity—"Could not you have those shares cancelled?" A pertinent question was put to him by one of the members of the Tribunal as to who was to provide the money for the cancellation; and the answer was, "The Fishguard Company." But the Fishguard Company has no means of getting money to cancel these shares. We hold the entire capital of the Fishguard Company—on this side of the Channel the whole of it—and we guarantee the interest on it. Where are they going to raise the money to enable them to procure the necessary funds to bring about the cancellation?

Mr. Wrottesley: From the public.

Mr. MacMillan: Supposing they go to the public, they would need to get additional powers from Parliament. They would require to get power from Parliament to get new capital. Supposing they succeeded in getting Parliament to do that in order to enable them to raise money from the public to be devoted to the cancellation of these shares the produce of which has been expended on the undertaking, would Parliament sanction the raising of the capital twice over for one set of works? Nay, more. Supposing Parliament, in a moment of aberration, did such a thing, the cancellation would not have the result which my friend Mr. Wrottesley contemplates of the whole of this money going back into dividend fund and becoming available for distribution. In point of fact, it could not be brought into account in a question with the traders, as far as I can see, in any way whatever, through any such devious course. It could not come into the dividend fund for distribution among the shareholders, nor could it come in for remuneration under (b). It would be a reduction of the railway company's capital. But if, on the other hand, the money were invested, then it would be money from another source of revenue which would redound to the benefit of the traders. Therefore, however you twist this transaction, you cannot, I think, succeed in bringing about any of the disasters which my friend contemplates. It seems to me that we are precluded, even if we wanted so to handle this fund as to use it to the prejudice of the traders in our calculations with them. My friend, on the equitable side of the transaction, has not been able to show you any reason whatever why it should not be brought into account for remuneration. I confess that the point of view which was put by Mr. Jepson a moment ago chimes exactly with an argument which applies to a good many other things in this case. The whole theory of Section 58, as I conceive it, is this: That you take the revenues of 1913, but as we are now in 1925 you have got (so to speak) to supplement what you got from 1913 by adjustments contemplated by the subsequent paragraphs of Section 58; and one

of the adjustments made is for the very reason that things which were in 1913 are calculated on a certain basis, as we are now in 1925 you ought to add for the period of 1913 to 1925 those things which were already in the period before 1913 in order that you may bring the whole thing to a proper level and that like may be associated with like. The supplements which you derive from the paragraphs (a), (b) and (c) are intended to be supplements of the same character as the things which are included and represented in the revenues of 1913. And when we ask you here to include this Great Western figure we are asking you to maintain the tradition which is set out in Sub-section (1) of Section 58 for getting at the revenues of the same undertaking, with the necessary supplement to bring the figures down to date, and we are asking nothing more.

Therefore upon this question, which seems to be the only matter really in contest before you to-day, I would ask your decision in favour of the railway companies and the preservation of the figure which the Minister has given us in his M.T. 3 applicable to the Great Western Railway, to take that figure as correctly stated.

I think the only other thing is a matter to which my friend did not refer—possibly it was an oversight—in his address just now. I did tell him we are taking the capital expenditure on which the interest was allowed irrespective of the fact that some of the works came into use in 1913 before the critical date in August, and some after. That is done advisedly and in precise conformity with the Statute, and has been known to the Minister and to all the parties all along. It is in exact conformity with the Statute. I really need not have mentioned it, but I thought it was as well to reassure you how the whole thing stood. Upon the whole case I think you have now the material, if I may say so, on which to complete this compartment of the case.

Mr. Jepson: Before you sit down, Mr. MacMillan, have you the amount represented by the capitalisation of the rent charges? How are we to have those figures? Are they in existence, or will they be got out?

Mr. MacMillan: They are not a great deal. We can supply these quite easily because the Minister has capitalised certain annual payments. We will take these out and furnish your Registrar with the necessary figures for that purpose.

If you state in your decision, if I may say so, that that is to be done, then the actual figures will follow automatically, and can be supplied. We shall put forward the figures, but the Minister will be asked to confirm them so that my friends need have no anxiety as to their accuracy.

Mr. Wrottesley: I formally submit what you have to find is the capital expenditure forming the basis on which interest was allowed in the period; and that has not been done, whether by the certificate of the Minister or anyone else. If they have given you £100 in respect of interest paid by the Government on, say, only three months instead of the whole year, that is the way in which this whole question of remuneration on works brought into use in 1913 was dealt with by the Government. I submit that the traders are entitled to have a similar consideration and a similar adjustment made in their favour when you come to fix the Standard Revenue. I suggest it is only as equitable as the other points. It is clear that unless that is done the Ministry have given you a capital sum, and if you are going to apply five per cent. to a capital sum remunerated in that way, you are remunerating that capital twice. I submit that on Section 58 (1) (a) that is not the proper allowance Parliament intended the railways should have in that respect. As I wish to make it clear, I make a formal submission upon that point.

Mr. MacMillan: You will observe the Pink Paper contains one definition of capital expenditure. It may be that in the calculation of interest as between the railway companies and the Government certain

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cognisance was taken of the date at which particular works were brought into use; and when you turn to the Act of Parliament you find the criterion for (1) (a) is capital expenditure forming the basis on which interest was paid. The capital expenditure is defined and is perfectly clear.

President: Have you anything more to say on that, Mr. Hurcomb?

Mr. Hurcomb: I would like to say this on that point, that the Minister has not considered it his duty to make adjustments in favour of or against anyone in the statement submitted to you, but to put in a statement on which you can arrive at your decision. I think Mr. Wrottesley will admit that the statement submitted shows entirely what it is. It is a statement showing the total amounts as at 15th August, 1921, upon which interest has been allowed by the Government under the Railway Agreements. In his earlier memoranda the Minister drew attention to the clauses of the Railway Agreements which deal with this question of interest on capital expenditure, and they make very clear what is so dealt with, including the point about the capitalised value of the rent charges or feu duties.

On the immediate point which has just been raised I would like to refer you to Question 4848, on page 266, when Mr. Wood, as the representative of the Ministry, put this very point. He said, "If you will refer to page 94 of the Agreement which governs this matter. It is in Appendix 1, para-

graph (b). It states there: 'Interest to be calculated during the control period, for such portions of that period as correspond with the period in 1913 prior to the date on which the work was brought into use.' Shortly, that means that if, say, a work costing £100,000 came into use on 1st of July, 1913, it was allowed during each year of control 4 per cent. for six months on that sum. The point which emerges is this: Is that £100,000 the proper figure to include for this purpose, having regard to the fact that one half of it, or, rather, for one half of the year 1913, it presumably earned profits and reflected in the base year?"

Then it was suggested lower down, by the Solicitor-General, that that was a point of interpretation which was before the Tribunal. So I do not think the Minister can be blamed for not having called your attention to these various points.

Mr. Wrottesley: I observe that the words of the Minister's Certificate are not in accordance with the Act, forming a basis "on which interest be allowed," but "upon which interest has been allowed." I observe that, and in fairness to my friend I ought to say that. That bears out the argument I am putting before you that you have something to decide other than the Minister's Certificate.

(The Tribunal conferred.)

President: We will consider our Judgment and let you know later.

